[COMMITTEE PRINT]

COMPILATION OF PUBLIC LAWS

REPORTED BY THE

COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY
1958-1988

REPORT

TO THE

COMMITTEE ON
SCIENCE, SPACE, AND TECHNOLOGY
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDREDTH CONGRESS

SECOND SESSION

Serial S—Volume II

DECEMBER 1988

Printed for the use of the Committee on Science, Space, and Technology

U.S. GOVERNMENT PRINTING OFFICE
97-054 WASHINGTON : 1989

H 702-8

For sale by the Superintendent of Documents, Congressional Sales Office
U.S. Government Printing Office, Washington, DC 20402

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LETTER OF TRANSMITTAL

House of Representatives,
Committee on Science, Space, and Technology,
Washington, DC, April, 1989.

Members, Committee on Science, Space, and Technology:

Dear Colleague: I am forwarding herewith a compilation of all of the public laws reported by this Committee since its inception as the Select Committee on Astronautics and Space Exploration in 1958. This compilation is complete through the 100th Congress. Included in the compilation is a chart which cites the bills considered by the Committee which were enacted as public law, and the United States Code citations to the public law. This format was developed so that it could assist in the tracking of legislation. The staff has also prepared an index of the public laws reported by the Committee by Congress, and by current subcommittee jurisdiction.

Sincerely,

Robert A. Roe, *Chairman.*

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99-73	National Bureau of Standards Authorization Act for Fiscal Year 1986.	1082
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		85TH CONGRESS [2]—VOLUME I		
H.R. 12575	National Aeronautics and Space Act of 1958	85–568	July 29, 1958	5 U.S.C. 22–1, 73b–2, 1071 note; 10 U.S.C. 2302; 18 U.S.C. 791–798; 42 U.S.C. 2163, 216550 U.S.C. 511–515.
S. 4208 (H.R. 13619)	NASA Authorization: Construction authority	85–657	Aug. 14, 1958	N/A.
		86TH CONGRESS		
S. 1096	NASA Authorization, 1959	86–12	Apr. 22, 1959	N/A.
H.R. 4913	NASA Authorization, Lease of Buildings in D.C.	86–20	May 13, 1959	42 U.S.C. 2473.
H.R. 7007	NASA Authorization Act, 1960	86–45	June 15, 1959	42 U.S.C. 2460.
H.R. 6288	National Medal of Science	86–209	Aug. 25, 1959	42 U.S.C. 1880, 1881
H.R. 8284	National Science Foundation Act of 1950, Amendment	86–232	Sept. 8, 1959	5 U.S.C. 73b–2; 42 U.S.C. 1862–1875.
H.R. 8374	World Scence-Pan Pacific Exposition	86–250	Sept. 9, 1959	N/A.
H.R. 10809	NASA Authorization, 1961	86–481	June 1, 1960	42 U.S.C. 2473(b)(2).
H.R. 11985	National Science Foundation Act of 1950, Amendment	86–550	June 29, 1960	42 U.S.C. 1869.
		87TH CONGRESS		
H.R. 6169	NASA Act of 1958, Amendment: National Aeronautics and Space Council	86–26	Apr. 25, 1961	42 U.S.C. 2471.
H.R. 6874	NASA Appropriation Authorization, 1962	87–98	July 21, 1961	42 U.S.C. 2459a.
H.R. 8556	National Science Foundation Act of 1950, Amendment: Scholarships	87–835	Oct. 16, 1962	20 U.S.C. 461, 511, 581; 42 U.S.C. 1869, 1874; 50 U.S.C. 782.
H.R. 11737	NASA Authorization Act, 1963	87–584	Aug. 14, 1962	40 U.S.C. 471 note; 42 U.S.C. 2471, 2473.
		88TH CONGRESS		
H.R. 7500	NASA Authorization Act, 1964	88–113	Sept. 6, 1963	42 U.S.C. 2459.
S. 1064	Standards of electrical and photometric measurements: Amendment to Act of July 21, 1950.	88–165	Nov. 14, 1963	15 U.S.C. 223.
S. 10456	NASA Authorization Act, 1965	88–369	July 11, 1964	42 U.S.C. 2459a.
H.R. 9334	Fruit and Vegetable Containers Standards: Amendment to Act of May 21, 1928.	88–516	Aug. 30, 1964	15 U.S.C. 257, 257a, 257d.
		89TH CONGRESS		
H.R. 7717	NASA Authorization Act of 1966	89–53	June 28, 1965	42 U.S.C. 2459 note, 2459a.
H.R. 14324	NASA Authorization Act, 1967	89–528	Aug. 5, 1966	42 U.S.C. 2459 note, 2459a.
		90TH CONGRESS		
S. 1296 (H.R. 10340)	NASA Authorization Act, 1968	90–67	Aug. 21, 1967	5 U.S.C. 5701–5708; 42 U.S.C. 2459 note, 2459a, 2477.

S. 1124 (H.R. 11248)	Fire Research and Safety Act of 1968	90–259	Mar. 1, 1968	5 U.S.C. 5101, 5331; 15 U.S.C. 271–278G.
H.R. 15856	NASA Authorization Act, 1969	90–373	July 3, 1968	42 U.S.C. 2459 note, 2459a.
H.R. 6279	Standard Reference Data Act	90–396	July 11, 1968	15 U.S.C. 271–278e, 290–290f.
H.R. 5404	National Science Foundation Act of 1950, Amendments	90–407	July 18, 1968	5 U.S.C. 5101, 5313, 5314, 5316, 5331; 33 U.S.C. 1121–1124; 42 U.S.C. 1862–1877.
H.R. 3136	Metric System Study	90–472	Aug. 9, 1968	15 U.S.C. 204.
H.R. 13058	Fruit and Vegetable Containers Standards: Repeal of Act of August 31, 1916, and the Act of May 21, 1928, and Amendment to Fair Packaging and Labeling Act of November 3, 1966.	90–628	Oct. 22, 1968	15 U.S.C. 251–256, 257–257i, 1451, 1459.

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H.R. 11271	NASA Authorization Act, 1970	91–119	Nov. 18, 1969	42 U.S.C. 2451 note, 2459 note, 2459a, 2462.
S. 1857 (H.R. 10878)	National Science Foundation Authorization Act, 1970	91–120	Nov. 18, 1969	42 U.S.C. 1861 note, 1872a note, 1873, 1876–1879, 1882.
H.R. 4284	Standard Reference Data Authorization Act, Fiscal Years 1970 and 1971	91–131	Dec. 1, 1969	15 U.S.C. 290 note.
H.R. 16516	NASA Authorization Act, 1971	91–303	July 2, 1970	42 U.S.C. 2451 note, 2459a, 2462.
H.R. 16595	National Science Foundation Authorization Act of 1971	91–356	June 24, 1970	42 U.S.C. 1861 note, 1876–1879.
H.R. 16539	NASA Act of 1958, Amendment: National Aeronautics and Space Council, Membership.	91–406	Sept. 23, 1970	42 U.S.C. 2471(a).

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H.R. 7109	NASA Authorization Act, 1972	92–68	Aug. 6, 1971	42 U.S.C. 2451 note, 2476.
H.R. 7960	National Science Foundation Authorization Act of 1972	92–86	Aug. 11, 1971	42 U.S.C. 1861 note, 1876–1879, 1862 note.
H.R. 11487	NASA Authorization-Chapel of the Astronauts, Inc., Fla. Conveyance	92–227	Feb. 15, 1972	N/A.
H.R. 14070	NASA Authorization Act, 1973	92–304	May 19, 1972	42 U.S.C. 2451 note, 2459 note, 2459a.
H.R. 13034	National Bureau of Standards Act of March 3, 1901, Amendment (and authorizations to carry out the Fire Research and Safety Act of 1968, and the Standard Reference Data Act).	92–317	June 22, 1972	15 U.S.C. 271 et seq. (15 U.S.C. 272, 273, 278d, 278e, 278f note) 15 U.S.C. 290–290f; 40 U.S.C. 14a.
H.R. 14108	National Science Foundation Authorization Act of 1973	92–372	Aug. 10, 1972	42 U.S.C. 1861 note, 1862, 1876.
H.R. 10243	Technology Assessment Act of 1972	92–484	Oct. 13, 1972	2 U.S.C. 471–481; 5 U.S.C. 552(b); 31 U.S.C. 529; 35 U.S.C. 5701; 41 U.S.C. 5; 41 U.S.C. 1862(b) 1873.

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H.R. 7528	NASA Authorization Act, 1974	93–74	July 23, 1973	5 U.S.C. 5316; 40 U.S.C. 303b; 42 U.S.C. 2473(b), 2471 et seq., 2476a.
H.R. 8510	National Science Foundation Authorization Act, 1974	93–96	June 16, 1973	42 U.S.C. 1861 note, 1862, 1876, 1882.
H.R. 13998	NASA Authorization Act, 1975	93–316	June 22, 1974	5 U.S.C. 5332 note; 42 U.S.C. 2459, 2463, 2473(b)(9).
H.R. 11864	Solar Heating and Cooling Demonstration Act of 1974	93–409	Sept 3, 1974	42 U.S.C. 2471 et seq., 42 U.S.C. 5501, 5501 note, 5503–5517.
H.R. 14920	Geothermal Energy Research, Development, and Demonstration Act of 1974	93–410	Sept. 3, 1974	30 U.S.C. 1101–1102, 1121–1126, 1141–1144, 1161–1164.
H.R. 13999	National Science Foundation Authorization Act, 1975	93–413	Sept. 4, 1974	42 U.S.C. 1882, 2451, 2473.

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S. 3234 (H.R. 16371)	Solar Energy Research, Development, and Demonstration Act of 1974	93–473	Oct. 26, 1974	42 U.S.C. 5501 note, 5551–5566.
S. 1769 (H.R. 11989)	Federal Fire Prevention and Control Act of 1974	93–498	Oct. 29, 1974	5 U.S.C. 101 et seq.; 15 U.S.C. 278–278g, 1511, 2201–2219; 42 U.S.C. 290a.
S. 1283 (H.R. 13565)	Federal Nonnuclear Energy Research and Development Act of 1974	93–577[3]	Dec. 31, 1974	42 U.S.C. 5901–5915.
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H.R. 4700	NASA Authorization Act, 1976	94–39	June 19, 1975	42 U.S.C. 2451 note, 2459 note, 2463, 2481–2484.
H.R. 37	Standard Reference Data Authorization Act	94–49	July 2, 1975	15 U.S.C. 290–290f.
H.R. 4723	National Science Foundation Authorization Act, 1976	94–86	Aug. 9, 1975	42 U.S.C. 1864 note, 1869a, 1881a, 1882, 5820 note.
H.R. 8674	Metric Conversion Act of 1975	94–168	Dec. 23, 1975	5 U.S.C. 5101 et seq., 5 U.S.C. 5331, 5332; 15 U.S.C. 205a–205k.
H.R. 3474	Energy Research and Development Administration Authorization, 1976	94–187	Dec. 31, 1975	30 U.S.C. 1122; 31 U.S.C. 484, 665; 42 U.S.C. 2017, 2301, 2391–2394, 5801 note, 5904 note, 5905, 5564, 5875, 5901, 5914–5917 note; 50 U.S.C. 9hh.
H.R. 10230	National Science and Technology Policy, Organization, and Priorities Act of 1976.	94–282	May 11, 1976	5 U.S.C. 5332 note, 3341, 5 U.S.C. app., 5 U.S.C. app. II; 42 U.S.C. 1861–1863, 6601–6602, 6611–6618, 6631–6635; 50 U.S.C. app. 2271 note.
H.R. 12453	NASA Authorization Act, 1977	94–307	June 4, 1976	5 U.S.C. 5316, 5332 note; 42 U.S.C. 2459 note, 2463, 2477.
S. 2862 (H.R. 12567)	Federal Fire Prevention and Control Act of 1974, Amendment and Authorization.	94–411	Sept. 13, 1976	15 U.S.C. 278f(b), 2210, 2216.
H.R. 8800	Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976.	94–413	Sept. 17, 1976	15 U.S.C. 2501–2514; 42 U.S.C. 2451, 2473.
H.R. 12566	National Science Foundation Authorization Act, 1977	94–471	Oct. 11, 1976	42 U.S.C. 1861–1864, 1873, 1873 note, 1883, 5820.
H.R. 7108	Environmental Research, Development, and Demonstration Authorization Act of 1976.	94–475	Oct. 11, 1976	7 U.S.C. 136 et seq.; 33 U.S.C. 1251 note, 1254–1255, 1257, 1263; 42 U.S.C. 241, 1857 et seq., 3251 et seq., 4361, 4901 et seq.
S. 3383 (H.R. 10039 and H.R. 14544)	National Weather Modification Policy Act of 1976	94–490	Oct. 13, 1976	15 U.S.C. 330 note, 330e.
S. 2150 (H.R. 14965)	Resource Conservation and Recovery Act of 1976	94–580	Oct. 21, 1976	5 U.S.C. app. II; 28 U.S.C. app.; 33 U.S.C. 1151 note, 1288, 1342; 42 U.S.C. 1857, 1857 note, 2011, 3251, 3254f, 5908, 6901–6907, 6911–6916, 6922–6931, 6941–6946, 6947–6949, 6951–6954, 6961–6964, 6971–6979, 6981–6987.

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S. 36	Energy Research and Development Administration Authorization, 1977	95–39	June 3, 1977	30 U.S.C. 1122; 42 U.S.C. 2301 note, 4901, 5564, 5801, 5813, 5816a, 5817a, 5818, 5875, 5901 note, 5903c, 5905, 5906 note, 5907 note, 5907a, 5908, 5912, 5914 note, 5915, 5915a, 5918, 6201 note, 6321, 6322, 7001–7011; 50 U.S.C. 98 note.
H.R. 4088	NASA Authorization Act, 1978	95–76	July 30, 1977	42 U.S.C. 2459 note, 2459a, 2463.
H.R. 4991	National Science Foundation Authorization Act, Fiscal Year 1978	95–99	Aug. 15, 1977	5 U.S.C. 5332 note; 42 U.S.C. 1861 note, 1862, note, 1869b, 1873a, 1882, 1884.
S. 126 (H.R. 6683)	Earthquake Hazards Reduction Act of 1977	95–124	Oct. 7, 1977	5 U.S.C. app., Reorganization Plan of 1978; 15 U.S.C. 2201; 42 U.S.C. 7701–7706.
H.R. 4297	Marine Protection, Research, and Sanctuaries Act of 1972, Amendment and Authorization.	95–153	Nov. 4, 1977	33 U.S.C. 1411, 1412a, 1420, 1434, 1444.
H.R. 5101	Environmental Research, Development, and Demonstration Authorization Act of 1978.	95–155	Nov. 8, 1977 —	5 U.S.C. 5101, 5331, 5332 note; 7 U.S.C. 136 note, 136w; 15 U.S.C. 2601 note; 33 U.S.C. 1251 note; 42 U.S.C. 201 note, 300f note, 300j–3a, 1857 note, 4361, 4361a, 4361b, 4363–4367, 4901, 6901 note.
S. 1339 (H.R. 6566)	Energy Research and Development Administration Authorization Act of 1977 and 1978—Military Applications.	95–183	Nov. 15, 1977	42 U.S.C. 2017, 5875.
S. 1340 (H.R. 6786)	Department of Energy Act of 1978—Civilian Applications	95–238	Feb. 24, 1978	5 U.S.C. 500 et seq.; 5 U.S.C. app.; 15 U.S.C. 2506, 2507, 2509, 2514, 2701–2710; 22 U.S.C. 2429 note, 3224a; 26 U.S.C. 1 et seq.; 30 U.S.C. 191, 1101, 1121, 1123, 1125, 1141, 1142, 1144, 1145; 31 U.S.C. 665, 774; 40 U.S.C. 276c, 471 note; 42 U.S.C. 2011, 2017, 2391, 2394, 2451, 5556a, 5801, 5811, 5821, 5821 note, 5901, 5905–5908, 5914–5916, 5919, 5920, 6901 note, 6907, 6984, 7135a, 7151a, 7256, 7257 note.
S. 1617	National Ocean Pollution Research and Development and Monitoring Planning Act of 1978.	95–273	May 8, 1978	33 U.S.C. 1441–1444, 1701–1709.
H.R. 11232	Standard Reference Data Act, Authorization for fiscal years 1979, 1980, 1981.	95–322	July 21, 1978	15 U.S.C. 270 et seq., (278b, 278h), 15 U.S.C. 290–290f.
H.R. 6669	National Climate Program Act	95–367	Sept. 17, 1978	5 U.S.C. 5332 note; 15 U.S.C. 2901–2908; 31 U.S.C. 25, 25 note, 1105.
H.R. 11401	NASA Authorization Act, 1979	95–401	Sept. 30, 1978	42 U.S.C. 2451, 2459 note, 2459a, 2462 note, 2473.
H.R. 11291	Federal Fire Prevention and Control Act of 1974, Amendments and Authorization.	95–422	Oct. 5, 1978	15 U.S.C. 278f, 1511, 2202–2204, 2216, 2220, 2221.
H.R. 11400	National Science Foundation Authorization Act for Fiscal Year 1979	95–434	Oct. 10, 1978	42 U.S.C. 1864 note, 1882.
H.R. 11302	Environmental Research, Development, and Demonstration Authorization Act of 1979.	95–477	Oct. 18, 1978	7 U.S.C. 136 note; 15 U.S.C. 2601 note; 33 U.S.C. 1251 note; 42 U.S.C. 201 note, 300j–3a, 300j–3a note, 300j–3b note, 300g–1, 300j–3a, 1857 note, 4361c, 4363a, 4366, 4368, 4369, 4901 note, 5910, 6901 note, 6952, 7401 note.
H.R. 7794	Antarctic Conservation Act of 1978	95–541	Oct. 28, 1978	12 U.S.T. 794; 17 U.S.T. 991; 5 U.S.C. 701 et seq.; 16 U.S.C. 710, 1361 note, 1531 note, 2401–2412; 22 U.S.C. 1971 note.
H.R. 12874	Solar Photovoltaic Energy Research, Development, and Demonstration Act of 1978.	95–590	Nov. 4, 1978	42 U.S.C. 5501, 5556a, 5581–5594, 5906–5908, 5916, 7233.

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S. 1816 (H.R. 12559)	Native Latex Commercialization and Economic Development Act of 1978	95–592	Nov. 4, 1978	7 U.S.C. 178, 178 note, 178a–178n, 1314f.
		96TH CONGRESS		
H.R. 1787	NASA Authorization, Supplemental, 1979	96–16	June 4, 1979	N/A.
H.R. 2520	National Ocean Pollution Research and Development and Monitoring Planning Act of 1978.	96–17	June 4, 1979	33 U.S.C. 1709.
H.R. 2729	National Science Foundation Authorization Act for Fiscal Year 1980	96–44	Aug. 2, 1979	42 U.S.C. 1862, 1862 note, 1864a, 1882.
H.R. 1786	NASA Authorization Act, 1980	96–48	Aug. 8, 1979	42 U.S.C. 2458b, 2458b note, 2459, 2459 note, 2473.
S. 1160 (H.R. 4016)	Federal Fire Prevention and Control of 1974, Authorization and Amendment	96–121	Nov. 16, 1979	15 U.S.C. 2201 et seq., 2210, 2216, 2218, 2220, 2222, 2223, 2780.
H.R. 2676	Environmental Research, Development, and Demonstration Authorization Act of 1980.	96–229	Apr. 7, 1980	7 U.S.C. 136 note; 15 U.S.C. 2601 note; 33 U.S.C. 1251 note; 42 U.S.C. 201 note, 4363, 4363a, 4369a, 4370, 4901 note, 6901 note, 6952, 7401 note.
H.R. 6615	National Ocean Pollution Research and Development and Monitoring Planning Act of 1978, Authorization and Amendment.	96–255	May 30, 1980	33 U.S.C. 1701 note, 1703, 1709.
S. 932 [4]	Energy Security Act	96–294	June 30, 1980	7 U.S.C. 341, 342, 427, 1435, 3129, 3154; 10 U.S.C. 7430, 12 U.S.C. 1451, 1454, 1717, 1723f, 1723g, 1723h, 3601–3620; 15 U.S.C. 753, 3391a; 16 U.S.C. 590h, 796, 824a–3, 824i, 824j, 1642, 2701 note, 2705, 2708; 30 U.S.C. 1141, 1143, 1146, 1147, 1501, 1511–1516, 1521, 1522, 1531, 1541, 1542; 42 U.S.C. 4321, 5908, 6240, 6347, 6862–6872, 7361–7364, 7371–7375, 8211, 8213, 8214, 8216, 8217, 8221, 8235–8235i, 8255, 8271, 8274–8276, 8281–8286b, 8701, 8702, 8711–8719, 8721–8725, 8731–8745, 8751–8755, 8761–8768, 8771–8782, 8791–8793, 8795, 8801–8804, 8811–8821, 8831–8840, 8851–8855, 8871, 8901–8905, 8911, 8912; 50 U.S.C. App. 2061 note, 2062, 2071, 2075, 2076, 2091–2093, 2095–2098, 2151, 2161, 2166.
H.R. 7474	Ocean Thermal Energy Conversion Research, Development, and Demonstration Act.	96–310	July 17, 1980	42 U.S.C. 7270, 9001–9009.
S. 2240 (H.R. 6413)	NASA Authorization, Act, 1981	96–316	July 30, 1980	42 U.S.C. 2459 note.
S. 1140 (H.R. 6616)	Marine Protection, Research, and Sanctuaries Act of 1972, Amendment to Title III, and Authorization.	96–332	Aug. 29, 1980	16 U.S.C. 1431, 1432, 1434
H.R. 5892	Wind Energy Systems Act of 1980	96–345	Sept. 8, 1980	42 U.S.C. 9201–9213; 1962d–17.
S. 2443 (H.R. 6865)	West Valley Demonstration Project Act	96–368	Oct. 1, 1980	41 U.S.C. 501 note; 42 U.S.C. 2011 note, 2014, 2021a note, 5801 note.

S. 1123 (H.R. 6616)	Marine Protection, Research, and Sanctuaries Act of 1972, Amendment to Section 204, and Authorization.	96–381	Oct. 6, 1980	33 U.S.C. 1411, 1412a, 1442, 1443, 1444.
H.R. 6308	Magnetic Fusion Energy Engineering Act of 1980	96–386	Oct. 7, 1980	42 U.S.C. 7321, 7270, 9301–9312.
H.R. 4417 [4]	Chesapeake Bay Research Coordination Act of 1980	96–460	Oct. 15, 1980	16 U.S.C. 3001–3007.
S. 2320 (H.R. 7113)	National Bureau of Standards Authorization Act for Fiscal Years 1981 and 1982.	96–461	Oct. 15, 1980	15 U.S.C. 271–278h.
S. 1393 (H.R. 7114)	Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974, Amendment and Appropriation to the Director of the Federal Emergency Management Agency.	96–472	Oct. 19, 1980	5 U.S.C. app.; 15 U.S.C. 278f, 2210, 2215, 2216; 42 U.S.C. 7704–7706; 50 U.S.C. app. 2251 note.
H.R. 2743	National Materials and Minerals Policy, Research and Development Act of 1980.	96–479	Oct. 21, 1980	30 U.S.C. 1601–1605; 42 U.S.C. 6601 et seq.
S. 1250	Stevenson-Wydler Technology Innovation Act of 1980	96–480	Oct. 21, 1980	15 U.S.C. 3701–3714; 42 U.S.C. 1861 note; 45 FR 69201.
H.R. 6889	Methane Transportation Research, Development, and Demonstration Act of 1980.	96–512	Oct. 12, 1980	5 U.S.C. 500 et seq.; 15 U.S.C. 3301, 3801–3810; 42 U.S.C. 5916, 7401 note.
S. 568 (H.R. 7115)	National Science Foundation Authorization, and Science and Technology Equal Opportunities Act (1981).	96–516	Oct. 12, 1980	42 U.S.C. 1861 note, 1863, 1864 note, 1866 note, 1874, 1875, 1881, 1881a, 1885–1885d.
H.R. 6933 [5]	Patent and trademark laws, amendment (Bayh-Dole Act, 1980)	96–517	Dec. 12, 1980	15 U.S.C. 1113; 17 U.S.C. 101, 106, 117; 35 U.S.C. 13, 14 note, 41, 41 note, 42, 132–134, 141–145, 154, 200–211, 252, 281 et seq., 301–307; 42 U.S.C. 2186, 2457, 5908.
S. 1391	National Climate Program Act, Authorization Extension and Amendment	96–547	Dec. 18, 1980	15 U.S.C. 330e, 2908.
H.R. 7865	Nuclear Safety Research, Development, and Demonstration Act of 1980	96–567	Dec. 22, 1980	42 U.S.C. 2039, 9701–9708.
S. 2726 (H.R. 7099)	Environmental Research, Development, and Demonstration Authorization Act of 1981.	96–569	Dec. 22, 1980	7 U.S.C. 136 note; 15 U.S.C. 2601 note; 33 U.S.C. 1251 note; 42 U.S.C. 201, 201 note, 1857 note, 3251, 4363, 4365.
S. 1148 (H.R. 6616)	Marine Protection, Research, and Sanctuaries Act, Title I, Reauthorization	96–572	Dec. 22, 1980	33 U.S.C. 1411, 1412a, 1412e, 1415, 1416, 1420, 1445.

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H.R. 3982 (H.R. 3146)	Omnibus Budget Reconciliation Act of 1981: Title X—Energy and Energy Related Programs—Subtitle A: Department of Energy Authorization.	97–35	Aug. 13, 1981	Subtitle A: 31 U.S.C. 1; 42 U.S.C. 7270, 7270 note.
S. 999 (H.R. 3356)	Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974, Amendment, and Appropriation to the Director of the Federal Emergency Management Agency.	97–80	Nov. 20, 1981	15 U.S.C. 278f, 2201 note, 2210, 2216, 2221; 42 U.S.C. 7701, 7706; 50 U.S.C. app. 2251.
S. 1098 (H.R. 1257)	NASA Authorization Act, 1982	97–96	Dec. 21, 1981	18 U.S.C. 7; 42 U.S.C. 2451 note, 2457, 2459 note, 2462.
S. 881 (H.R. 4326)	Small Business Innovation Development Act of 1982	97–219	July 22, 1982	15 U.S.C. 631 note, 638, 638 note.
H.R. 4961 (H.R. 2643 and H.R. 6193)	Tax Equity and Fiscal Responsibility Act of 1982: Title V—Airport and Airway Improvement Act of 1982.	97–248	Sept. 3, 1982	42 U.S.C. 2000d; 49 U.S.C. 1101 note, 1115 note, 1301 note, 1302, 1303, 1348, 1349(a), 1354(c), 1356a, 1371, 1432, 1509(e), 1653, 1701–1731, 2000d, 2103, 2104, 2108, 2201–2202, 2204–2225; 50 U.S.C. 1622.

COMPILATION OF PUBLIC LAWS REPORTED BY THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, 1958–88—Continued

Bill number [1]	Title	Public law	Date	United States Code cite
S. 2271 (H.R. 5726)	National Bureau of Standards Authorization Act for Fiscal Year 1983	97–286	Oct. 6, 1982	15 U.S.C. 275b, 278(e).
H.R. 5890	NASA Authorization Act, 1983	97–324	Oct. 15, 1982	5 U.S.C. app., 15 U.S.C. 1517 note, 2201 note; 42 U.S.C. 2459 note, 2464, 2464 note.
H.R. 3809 (H.R. 5016)	Nuclear Waste Policy Act of 1982	97–425	Jan. 7, 1983	5 U.S.C. 553, 701 et seq.; 42 U.S.C. 2011 et seq., 4321 et seq., 5801 et seq., 10101–10108, 10121, 10131–10145, 10157, 10161, 10171, 10191–10203, 10221–10226.
S. 2273 (H.R. 6272)	Earthquake Hazards Reduction Act of 1977, Amendment and Authorization	97–464	Jan. 12, 1983	42 U.S.C. 7704–7706; 50 U.S.C. app. 2251.
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H.R. 2065	NASA Authorization Act, 1984	98–52	July 15, 1983	15 U.S.C. 1517 note, 42 U.S.C. 2452, 2457, 2459 note, 2459b, 2465, 2466.
S. 820 (H.R. 2465)	Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 for Fiscal Years 1984 and 1985, Appropriation and Amendment.	98–241	Mar. 22, 1984	15 U.S.C. 2214, 2216; 42 U.S.C. 7704–7706.
H.R. 2733	Critical Agricultural Materials Act (Amendment to Native Latex Commercialization and Economic Development Act of 1978).	98–284	May 16, 1984	7 U.S.C. 178, 178 note, 178a–178n.
H.R. 5154	NASA Authorization Act, 1985	98–361	July 16, 1984	15 U.S.C. 4261 note; 42 U.S.C. 2451, 2451 note, 2459, 2459a.
H.R. 5155	Land Remote-Sensing Commercialization Act of 1984	98–365	July 17, 1984	5 U.S.C. 701 et seq.; 15 U.S.C. 1517 note, 4201–4204, 4211–4215, 4221–4227, 4241–4246, 4261–4263, 4271–4278, 4291, 4292; 47 U.S.C. 609.
S. 373	Arctic Research and Policy Act of 1984	98–373	July 31, 1984	2 U.S.C. 651; 5 U.S.C. 5331, 8101 et seq.; 15 U.S.C. 4101–4111; 28 U.S.C. 2671 et seq.; 30 U.S.C. 1601 note, 1801–1811; 31 U.S.C. 1342.
H.R. 1310	Education for Economic Security Act	98–377	Aug. 11, 1984	20 U.S.C. 1141, 1232a–1234c, 2461, 2854, 3191, 3806, 3811 et seq., 3832, 3901, 3902, 3911–3915, 3921–3923, 3931–3933, 3941, 3951–3954, 3961–3973, 3981–3988, 4001–4003, 4011–4021, 4031–4037, 4051–4062, 4071–4074; 42 U.S.C. 1861 note, 2000d.
S. 1841 (H.R. 4043)	National Cooperative Research Act of 1984	98–462	Oct. 11, 1984	15 U.S.C. 15, 26, 4301–4305.
H.R. 3942	Commercial Space Launch Act	98–575	Oct. 30, 1984	49 U.S.C. app. 2601–2623.
H.R. 6163 (H.R. 5003)	Trademark Clarification Act of 1984: Title V—Government Research and Development Patent Policy.	98–620	Nov. 8, 1984	Title V: 35 U.S.C. 142–144, 201–203, 206, 212; 41 U.S.C. 601 et seq.

H.R. 6342	Approval of Governing International Fishery Agreements with Iceland and the European Community: Title III—Antarctic Marine Living Resources Convention Act of 1984.	98–623	Nov. 8, 1984	Title III: 16 U.S.C. 2431–2444; 46 U.S.C. 12101 et seq., 12301 et seq.; TIAS 10240; 13 UST 2312.
	99TH CONGRESS			
H.R. 2800	Land Remote-Sensing Commercialization Act of 1984, Authorization	99–62	July 11, 1985	15 U.S.C. 4278.
H.R. 1617	National Bureau of Standards Authorization Act for Fiscal Year 1986	99–73	July 29, 1985	5 U.S.C. 5315, 5315 note, 5316; 15 U.S.C. 274, 275c, 275c note, 278b(f), 281a.
S. 818 (H.R. 1727)	Federal Fire Prevention and Control Act of 1974, Authorization	99–97	Sept. 26, 1985	15 U.S.C. 2210, 2216.
S. 817 (H.R. 1728)	Earthquake Hazards Reduction Act of 1977, Amendment and Authorization for Fiscal Years 1986 and 1987.	99–105	Sept. 30, 1985	42 U.S.C. 7704–7706.
H.R. 1210	National Science, Engineering, and Mathematics Authorization Act of 1986. National Science Foundation Authorization Act for Fiscal Year 1986.	99–159	Nov. 22, 1985	20 U.S.C. 351a, 351c, 351d, 351f note, 353, 362, 363, 366, 880b note, 10877a, 1087bb, 1087bb notes, 1134h, 1221e, 1232a, 1411 note, 2007, 2301 note, 2302, 2311 note, 2312, 2321, 2322, 2323, 2331, 2333, 2341, 2361, 2362, 2363, 2383, 2392, 2417, 2462, 2464, 2471, 2763, 3444, 3901 note, 3902, 3911–3922, 3963–3973, 3982, 3983, 3985–3988, 4003, 4033, 4051, 4053, 4056, 4059; 29 U.S.C. 1503, 1753; 42 U.S.C. 1861–1875, 1881–1886; 47 U.S.C. 397.
H.R. 1714	NASA Authorization Act of 1986	99–170	Dec. 5, 1985	5 U.S.C. app.; 42 U.S.C. 2451 notes, 2459a, 2459 note, 2463, 2466–2466d; 49 U.S.C. app. 2623.
H.R. 3235	NASA Authorization for the Mississippi Technology Transfer Center	99–171	Dec. 9, 1985	N/A.
H.R. 3128 (H.R. 3959)	Omnibus Budget Reconciliation Act of 1985 (National Climate Program Amendments Act of 1985).	99–272	Apr. 7, 1986	15 U.S.C. 330e, 1530, 2903–2905; 16 U.S.C. 1451, 1451 notes, 1455, 1455a, 1456a, 1456c, 1458, 1460, 1461, 1464, 1824; 33 U.S.C. 883e, 883j, 1441–1445, 1701–1703, 1707, 1709; 44 U.S.C. 1307; 46 U.S.C. 13106.
S. 2180 (H.R. 4252)	Federal Fire Prevention and Control Act of 1974, Amendment and Authorization.	99–359	July 8, 1986	15 U.S.C. 260a, 260a note, 2216(f).
S. 1073 (H.R. 3831)	Japanese Technical Literature Act of 1986 (Amendment to the Stevenson-Wydler Technology Innovation Act of 1980).	99–382	Aug. 14, 1986	15 U.S.C. 3701 note, 3704.
H.R. 4184	National Science Foundation Authorization Act for Fiscal Year 1987	99–383	Aug. 21, 1986	5 U.S.C. 5316; 10 U.S.C. 2354; 42 U.S.C. 1861 note, 1862(a)(6), 1864(a), 1869, 1870, 1876 et seq., 1885a.
H.R. 4260	Small Business Innovation Development Act of 1982, Amendment and Authorization.	99–443	Oct. 6, 1986	15 U.S.C. 638 and note.
H.R. 2005 (H.R. 3065)	Superfund Amendments and Reauthorization Act of 1986 (Amendment and Extension of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980): Title II—Miscellaneous Provisions, Section 209—Research, development, and demonstration.	99–499	Oct. 17, 1986	Title II, Section 209; 26 U.S.C. 501; 42 U.S.C. 281, 501, 6901 note, 9604, 9660.

COMPILATION OF PUBLIC LAWS REPORTED BY THE U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON SCIENCE, SPACE, AND TECHNOLOGY, 1958–88—Continued

Bill number [1]	Title	Public law	Date	United States Code cite
H.R. 3773	Federal Technology Transfer Act of 1986 (Amendment to the Stevenson-Wydler Technology Innovation Act of 1980).	99–502	Oct. 20, 1986	15 U.S.C. 3701 note, 3702–3705, 3707–3714; 35 U.S.C. 200 et seq., 210.
H.R. 4354	National Bureau of Standards Authorization Act for Fiscal Year 1987	99–574	Oct. 28, 1986	5 U.S.C. 4301 et seq., 5331, 5381, 5401 et seq., 7511; 15 U.S.C. 27th, 275 note, 278g–1, 278g–2, 278h, 282a.
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H.R. 812	Malcolm Baidrige National Quality Improvement Act of 1987 (Amendment to the Stevenson-Wydler Technology Innovation Act of 1980).	100–107	Aug. 20, 1987	15 U.S.C. 3701 et seq., (3701 note, 3708, 3711a–3714).
H.R. 2782 (H.R. 1741 and S. 1164)	NASA Authorization Act of 1988	100–147	Oct. 30, 1987	15 U.S.C. 4201 et seq. (4201 note, 4212, 15 U.S.C. 4221 et seq. (4228), 15 U.S.C. 4261 et seq. (4262–4264), 4273; 42 U.S.C. 2451 et seq. (2451, 2451 note, 2459, 2459 note, 2459a, 2459c) 2476b, 2486, 2486 note, 2486a–2486i; 49 U.S.C. app. 2623.
H.R. 3545	Omnibus Budget Reconciliation Act of 1987: Title V—Energy and Environment Programs—Subtitle A: Nuclear Waste Policy Amendments Act of 1987.	100–203	Dec. 22, 1987	42 U.S.C. 2011 et seq., 4321 et seq., 10101 note, 10121–10172a.
H.R. 1777 (H.R. 3497)	Foreign Relations Authorization Act, Fiscal Years 1988 and 1989: title XI—Global Climate Protection Act of 1987.	100–204	Dec. 22, 1987	15 U.S.C. 2901 note.
H.R. 23107 (H.R. 1517)	Airport and Airway Safety and Capacity Expansion Act of 1987: Title I—Airport and Airway Improvement Act Amendments, Section 105(b); and, Title II—Federal Aviation Act Amendments, Section 203.	100–223	Dec. 30, 1987	49 U.S.C. app. 1421, 1421 note, 2201 note, 2205, 2205 note.
H.R. 145	Computer Security Act of 1987	100–235	Jan. 8, 1988	15 U.S.C. 271, 271 note, 272, 278g–3, 278g–4, 278h; 40 U.S.C. 759, 759 note.
H.R. 1612	Earthquake Hazards Reduction Act of 1977, Authorization for Fiscal Years 1988, and 1989, and 1990.	100–252	Feb. 29, 1988	42 U.S.C. 7704, 7706(a)–7706(d).
H.R. 1414	Price-Anderson Amendments Act of 1987	100–408	Aug. 20, 1988	42 U.S.C. 2011, 2011 note, 2014, 2014 note, 2014(t), 2014(w), 2210, 2210(b), 2210(c), 2210(d), 2210(e), 2210(i), 2210(k), 2210(n), 2210(o), 2210(p), 2210(q), 2273, 2282a, 10222.
H.R. 4848 (H.R. 3)	Omnibus Trade and Competitiveness Act of 1988: Title V—Foreign Corrupt Practices Amendments; Investment; and Technology, Subtitle B—Technology Competitiveness Act, Subtitle C—Competitiveness Policy Council Act, Subtitle E—Trade Data, Impact, and Studies—Part II—Impact Statements and Studies; and, Title VI—Education and Training for American Competitiveness, Subtitle E—National Science Foundation University Infrastructure (Superseded by Title II, Academic Research Facilities Modernization Act of 1988, of the National Science Foundation	100–418	Aug. 23, 1988	Title V, Subtitle B: 5 U.S.C. 5315; 15 U.S.C. 205b, 205j–1, 205k, 205o, 271, 271 note, 272, 272 note, 274, 278, 278i–278o, 278n note, 280–282a, 1532, 1533, 3703, 3704a, 3705–3708, 37810–3710d, 3711, 3711a, 3712–3714, 4362; 30 U.S.C. 1803 note, 1804 note, 1807 note, 1809, 1810. Subtitle C: 15 U.S.C. 4801–4809. Subtitle E: 2 U.S.C. 194b; 15 U.S.C. 4603a. Title VI, Subtitle E—42 U.S.C. 1861 note, 1862a, 1862b.

	Authorization Act of 1988, P.L. 100–570); and, Title VIII—Section 8008—Amendment to the Small Business Innovation Development Act of 1982.			
S. 52 (H.R. 2737)	Continental Scientific Drilling and Exploration Act	100–441	Sept. 22, 1988	43 U.S.C. 31, 31 note.
H.R. 4419	Federal Fire Prevention and Control Act of 1974, Authorization and Amendment.	100–476	Oct. 6, 1988	15 U.S.C. 2216.
H.R. 4417	National Institute of Standards and Technology Authorization Act for fiscal Year 1989, (National Technical Information Act of 1988, and amendments to the Stevenson-Wydler Innovation Act of 1980).	100–519	Oct. 24, 1988	5 U.S.C. 5314; 15 U.S.C. 272, 272 note, 272a, 272b, 278k note, 1152, 3701 note, 3703–3704 note, 3704b, 3710, 3710a, 3710b, 3710c.
H.R. 4418	National Science Foundation Authorization Act of 1988	100–570	Oct. 19, 1988	5 U.S.C. app. 4; 20 U.S.C. 2701 et seq., 3011, 3012, 3911; 42 U.S.C. 1861–1863, 1870, 1870a, 1873, 1874, 1875, 1875 note, 1881b, 1885(f), 1885(c), 7701 et seq., (7704 note).
H.R. 4686 (H.R. 3779)	Aviation Safety Research Act of 1988	100–591	Nov. 3, 1988	49 U.S.C. 106; 49 U.S.C. app. 1301, 1353, 2205.
H.R. 4210	Marine Protection, Research, and Sanctuaries Act of 1972, Amendments and Reauthorization to Titles II and III; and to establish the National Oceans Policy Commission.	100–627	Nov. 7, 1988	16 U.S.C. 1431–1445; 33 U.S.C. 1442(a), 1444, 1445, 1703.
H.R. 4211	National Ocean Pollution Planning Act of 1978, Amendment and Reauthorization for Fiscal Years 1989 and 1990.	100–636	Nov. 8, 1988	33 U.S.C. 1701–1709.
H.R. 4399 (H.R. 3765)	Commercial Space Launch Act Amendments of 1988	100–657	Nov. 15, 1988	49 U.S.C. app. 2601, 2603, 2614, 2615.
S. 2470	Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988f.	100–680	Nov. 17, 1988	15 U.S.C. 5101–5110.
S. 2209 (H.R. 4157, H.R. 4561, S. 1667, and H.R. 3779)	NASA Authorization Act, Fiscal Year 1989 (including, Title IV—Authorization for the National Oceanic and Atmospheric Administration for Fiscal Year 1989, and, Title V—Establishing the National Space Council).	100–685	Nov. 17, 1988	15 U.S.C. 313, 1534, 3704, 4201 et seq., 31 U.S.C. 1105; 40 U.S.C. 303b; 42 U.S.C. 2451, 2456a, 2459, 2459a, 2471, 7454, 8906; 49 U.S.C. app. 1353, 2623.
H.R. 3048	National Superconductivity and Competitiveness Act of 1988	100–697	Nov. 19, 1988	15 U.S.C. 5201–5209.

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[1] Where the bill considered by the Committee on Science, Space, and Technology is not the bill that became public law, the bill that the Committee considered primarily is noted in parenthesis.

[2] This legislation was reported by the Select Committee on Astronautics and Space Exploration.

[3] Public Law 93–577 was reported by the Committee on Interior and Insular Affairs and not the Committee on Science, Space, and Technology. (The Committee was then referred to as the Committee on Science and Astronautics.) Jurisdiction by the Committee over the subject matter of Public Law 93–577, however, was anticipated by the Chairman and members of the Committee at the time that this law was debated and passed by the House. Hence, the Committee Chairman, the Committee's ruling minority member, and another member of the Committee were appointed as conferees on the bill as well as members of the Interior Committee.

[4] The Committee did not report this bill, but successfully asserted jurisdiction, and participated in the House-Senate conference on this bill.

[5] The Committee had jurisdiction over H.R. 4417 which was enacted as Public Law 96–460, but was discharged from further consideration of the bill without prejudice to its jurisdiction at the request of the Committee's chairman.

[6] The Committee did not report this bill but did hold hearings and reported out a similar bill, H.R. 5715. In lieu of pursuing H.R. 5715, however, the Committee supported H.R. 6933. The Committee has reported subsequent legislation amending Public Law 96–517.

Public Law 97-35
97th Congress

An Act

To provide for reconciliation pursuant to section 301 of the first concurrent resolution on the budget for the fiscal year 1982.

Aug. 13, 1981
[H.R. 3982]

SHORT TITLE

SECTION 1. This Act may be cited as the "Omnibus Budget Reconciliation Act of 1981".

Omnibus Budget Reconciliation Act of 1981.

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Title XXVII. Health professions.

PURPOSE

SEC. 2. It is the purpose of this Act to implement the recommendations which were made by specified committees of the House of Representatives and the Senate pursuant to directions contained in part A of title III of the first concurrent resolution on the budget for the fiscal year 1982 (H. Con. Res. 115, 97th Congress), and pursuant to the reconciliation requirements which were imposed by such concurrent resolution as provided in section 310 of the Congressional Budget Act of 1974.

31 USC 1331.

TITLE X—ENERGY AND ENERGY-RELATED PROGRAMS

Subtitle A—Department of Energy Authorization

CHAPTER 1—CIVILIAN RESEARCH AND DEVELOPMENT AUTHORIZATION

OPERATING EXPENSES

42 USC 7270 note.

42 USC 7270.

SEC. 1001. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for the civilian research and development programs of the Department of Energy for the following appropriations accounts:

(1) General science and research activities,

(A) for the fiscal year ending on September 30, 1982, $439,160,000;

(B) for the fiscal year ending on September 30, 1983, $471,000,000; and

(C) for the fiscal year ending on September 30, 1984, $500,000,000.

(2) Energy supply, research and development activities,

(A) for the fiscal year ending on September 30, 1982, $2,057,460,000;

(B) for the fiscal year ending on September 30, 1983, $2,141,000,000 including programs authorized in section 1007(a)(3)(A); and

(C) for the fiscal year ending on September 30, 1984, $2,258,000,000 including programs authorized in section 1007(a)(3)(A).

(3) Uranium supply and enrichment activities (advanced isotope separation), for the fiscal year ending on September 30, 1982, $80,292,000.

(4) Geothermal resources development fund: geothermal loan guarantee and interest assistance program,

(A) for the fiscal year ending on September 30, 1982, $200,000;

(B) for the fiscal year ending on September 30, 1983, $200,000; and

(C) for the fiscal year ending on September 30, 1984, $200,000.

(5) Fossil energy research and development, including capital equipment not related to construction,

(A) for the fiscal year ending on September 30, 1982, $460,800,000;

(B) for the fiscal year ending on September 30, 1983, $430,800,000; and

(C) for the fiscal year ending on September 30, 1984, $430,800,000.

(6) Energy conservation research and development, including capital equipment not related to construction,

(A) for the fiscal year ending on September 30, 1982, $149,444,000;

(B) for the fiscal year ending on September 30, 1983, $154,000,000; and

(C) for the fiscal year ending on September 30, 1984, $158,600,000.

PLANT AND CAPITAL EQUIPMENT GENERALLY

42 USC 7270 note.

42 USC 7270.

SEC. 1002. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for construction, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of captial equipment not related to construction of the Department of Energy for the following appropriations accounts:

(1) General science and research activities,

(A) for the fiscal year ending on September 30, 1982, $128,300,000 including the amounts authorized to be appropriated in sections 1003 and 1004(a)(3);

(B) for the fiscal year ending on September 30, 1983, $137,000,000; and

(C) for the fiscal year ending on September 30, 1984, $147,000,000.

(2) Energy supply, research and development activities,

(A) for the fiscal year ending on September 30, 1982, $370,132,000 including the amounts authorized to be appropriated in sections 1003 and 1004(a)(2);

(B) for the fiscal year ending on September 30, 1983, $354,000,000; and

(C) for the fiscal year ending on September 30, 1984, $416,200,000.

(3) Fossil energy construction,

(A) for the fiscal year ending on September 30, 1982, $18,000,000 including the amounts authorized to be appropriated in sections 1003 and 1004(a)(1);

(B) for the fiscal year ending on September 30, 1983, $13,000,000; and

(C) for the fiscal year ending on September 30, 1984, $6,000,000.

PRIOR YEAR CONSTRUCTION

42 USC 7270 note.

SEC. 1003. (a) Of the amounts authorized to be appropriated for fiscal year 1982 by sections 1001 and 1002, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for construction (including planning, construction, acquisition, and modification of facilities, including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, with respect to each prior year project listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget, amounts not to exceed the appropriations amount requested for such project for fiscal year 1982 as set forth in such budget documents, except as otherwise provided (in the case of specific projects) under subsection (b).

42 USC 7270.

(b) The amounts otherwise authorized by subsection (a) to be appropriated for fiscal year 1982 or previously authorized are increased or decreased as follows:

(1) Fossil energy research and development:

(A) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for fossil energy research and development is decreased by $800,000;

(2) Energy supply research and development:

(A) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy supply, research, and development activities is increased by $1,000,000;

(B) in the case of Project 81-ES-1, OTEC 40MW Pilot Plant, the amount previously authorized is increased by $6,300,000, for a total project authorization of $36,300,000;

(C) in the case of Project 81-T-314, Impurity Studies Experiment Modification (ISX-C), Oak Ridge, Tennessee, the amount previously authorized is increased by $3,500,000, for a total project authorization of $7,000,000;

(D) in the case of Project 80-ES-19, 250KW, Small Community Solar Thermal Power Experiment, the amount previously authorized is increased by $4,000,000, for a total project authorization of $8,180,000;

(E) in the case of Project 80-G-2, Second 50 MWe Demonstration Power Plant, Heber, Imperial Valley, California, the amount previously authorized is increased by $11,000,000, for a total project authorization of $19,000,000;

(F) in the case of Project 78-6-f, Fuels and Materials Examination Facility, Hanford, Washington, the amount previously authorized is increased by $17,800,000, for a total project authorization of $176,800,000; and

(G) in the case of Project 78-3-b, Mike McCormack Fusion Materials Irradiation Test Facility, Hanford, Washington, the amount previously authorized is increased by $14,000,000, for a total project authorization of $47,000,000.

(3) Energy conservation:

(A) in the case of acquisition and fabrication of capital equipment not related to construction, the amount so authorized for energy conservation is increased by $326,000.

Definitions.

(c) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

NEW CONSTRUCTION

42 USC 7270 note.

SEC. 1004. (a) Of the amounts appropriated for fiscal year 1982 pursuant to the authorization provided in section 1002, funds may be expended for new plant and capital equipment activities, including planning, construction, acquisition, or modification of facilities, including land acquisition. The following new plant and capital equipment activities are hereby authorized in an amount not to exceed the Federal share of the total estimated cost set forth for each project in budget documents submitted to the Congress in support of the fiscal year 1982 budget. Within such amounts the authorizations for the new plant and capital equipment activities for fiscal year 1982 are limited as follows:

(1) Fossil energy construction:

(A) Project 82-F-506, Surface Water Containment and Waste Water Treatment Facility, Pittsburgh Energy Technology Center, Bruceton, Pennsylvania, $1,000,000; and

(B) Project 82-F-505, General plant projects for technology centers, six locations, $6,000,000; and

(2) Energy supply research and development:

(A) Nuclear fission activities:

(i) Project 82-N-315, General plant projects, Richland, Washington, and other sites, $1,100,000;

(ii) Project 82-N-310, Modification to reactors, various locations, $2,000,000; and

(iii) Project 82-N-312, General plant projects, $11,000,000.

(B) Magnetic fusion activities:

(i) Project GPP-82, General plant projects, Princeton, New Jersey, and Oak Ridge, Tennessee, $5,700,000.

(C) Supporting research and technical analysis activities:

(i) Project 82-E-322, High Temperature Materials Laboratory, Oak Ridge National Laboratory, Oak Ridge, Tennessee, $3,500,000;

(ii) Project 82-E-321, Accelerator Improvements and Modifications, various locations, $300,000;

(iii) Project 82-E-320, General plant projects, various locations, $300,000;

(iv) Project 82-E-301, 300 area critical utilities upgrading, Richland, Washington, $1,000,000;

(v) Project 82-E-302, Security Facility, Argonne National Laboratory, Argonne, Illinois, $1,500,000;

(vi) Project 82-E-305, Traffic safety improvements, Richland, Washington, $3,800,000;

(vii) Project 82-E-306, Railroad modifications, Idaho National Engineering Laboratory, Idaho, $2,000,000.

(D) Environmental research and development activities:

(i) Project 82-GPP-1, General plant projects, $3,000,000; and

(ii) Project 82-V-305, Modifications and additions to environmental research facilities, various locations, $1,000,000.

(3) General science and research activities:

(A) High energy physics activities:

(i) Project 82-E-206, Tevatron II, Fermi National Accelerator Laboratory, Batavia, Illinois, $6,000,000;

(ii) Project 82-E-205, Accelerator improvements and modifications, various locations, $7,000,000; and

(iii) Project 82-E-204, General plant projects, various locations, $6,000,000;

(B) Nuclear physics activities:

(i) Project 82-E-223, Argonne Tandem-Linac Accelerator System (ATLAS), Argonne National Laboratory, Argonne, Illinois, $4,000,000;

(ii) Project 82-E-221, Accelerator improvements and modifications, various locations $2,000,000; and

(iii) Project 82-E-222, General plant projects, various locations, $2,800,000.

Definitions.

(b) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

CHAPTER 2—CONSERVATION, INFORMATION, AND REGULATION

AUTHORIZATIONS FOR FISCAL YEARS 1982, 1983, AND 1984

42 USC 7270 note.

42 USC 7270.

SEC. 1005. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses for—

(1) Energy conservation,

(A) for the fiscal year ending on September 30, 1982, $363,056,000;

(B) for the fiscal year ending on September 30, 1983, $387,400,000; and

(C) for the fiscal year ending on September 30, 1984, $399,000,000.

(2) Regulation and information activities—

(A) for the fiscal year ending on September 30, 1982, including—

(i) for economic regulation, $44,600,000;

(ii) for the Federal Energy Regulatory Commission, $80,400,000; and

(iii) for the Energy Information Administration, $84,986,000;

(B) for the fiscal year ending on September 30, 1983, $265,000,000; and

(C) for the fiscal year ending on September 30, 1984, $275,000,000.

(3) Strategic Petroleum Reserve, to carry out part B of title I of the Energy Policy and Conservation Act, except acquisition, transportation, and injection of petroleum products for the Reserve and the carrying out of any drawdown and distribution of the Reserve—

(A) for the fiscal year ending September 30, 1983, $366,319,000; and

(B) for the fiscal year ending on September 30, 1984, $364,429,000.

CHAPTER 3—POWER MARKETING ADMINISTRATIONS

42 USC 7270 note.
42 USC 7270.

SEC. 1006. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for the civilian programs of the Department of Energy for the following appropriations accounts:

(1) Alaska Power Administration operation and maintenance,

(A) for the fiscal year ending on September 30, 1982, $3,538,000 of which $50,000 shall be reserved for an emergency fund to assure continuous operations during unusual or emergency conditions;

(B) for the fiscal year ending on September 30, 1983, $3,374,000; and

(C) for the fiscal year ending on September 30, 1984, $3,374,000.

(2) Southeastern Power Administration operation and maintenance,

(A) for the fiscal year ending on September 30, 1982, $7,237,000;

(B) for the fiscal year ending on September 30, 1983, $11,848,000; and

(C) for the fiscal year ending on September 30, 1984, $24,240,000.

(3) Southwestern Power Administration operation maintenance,

(A) for the fiscal year ending on September 30, 1982, $20,239,000;

(B) for the fiscal year ending on September 30, 1983, $38,119,000; and

(C) for the fiscal year ending on September 30, 1984, $40,254,000.

(4) Western Area Power Administration construction rehabilitation, operation and maintenance,

(A) for the fiscal year ending on September 30, 1982, $210,774,000;

(B) for the fiscal year ending on September 30, 1983, $226,400,000; and

(C) for the fiscal year ending on September 30, 1984, $259,700,000.

(5) Western Area Power Administration emergency fund,

(A) for the fiscal year ending on September 30, 1982, $500,000;

(B) for the fiscal year ending on September 30, 1983, $500,000; and

(C) for the fiscal year ending on September 30, 1984, $500,000.

CHAPTER 4—OTHER ACTIVITIES

OPERATING EXPENSES

42 USC 7270 note.

SEC. 1007. (a) Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for operating expenses—

(1) uranium supply and enrichment activities,

(A) other than advanced isotope separation, for the fiscal year ending on September 30, 1982, for—

(i) gaseous diffusion operations and support, $961,825,000;

(ii) gas centrifuge operations and support, $5,200,000;

(iii) uranium enrichment process development, $93,075,000;

(iv) program administration, $3,100,000; and

(v) uranium resource assessment, $9,700,000;

(B) including advanced isotope separation, for the fiscal year ending on September 30, 1983, $1,621,600,000; and

(C) including advanced isotope separation, for the fiscal year ending on September 30, 1984, $1,973,600,000.

(2) Department administration,

(A) for the fiscal year ending on September 30, 1982, $206,000,000;

(B) for the fiscal year ending on September 30, 1983, $246,963,000, including plant and capital equipment; and

(C) for the fiscal year ending on September 30, 1984, $246,963,000, including plant and capital equipment.

(3) Energy supply research and development,

(A) solar and hydropower for the fiscal year ending on September 30, 1982, $11,700,000; and

(B) commercial waste management,

(i) other than programs authorized in section 1001(2)(A), for the fiscal year ending on September 30, 1982, $67,370,000;

(ii) for the fiscal year ending on September 30, 1983, $284,148,000; and

(iii) for the fiscal year ending on September 30, 1984, $300,000,000.

(4) Energy conservation, including capital equipment not related to construction,

(A) for the fiscal year ending on September 30, 1982, $32,600,000;

(B) for the fiscal year ending on September 30, 1983, $33,600,000; and

(C) for the fiscal year ending on September 30, 1984, $34,600,000.

(5) Energy production, demonstration, and distribution,

(A) for the fiscal year ending on September 30, 1982, $230,963,000;

(B) for the fiscal year ending on September 30, 1983, $377,195,000; and

(C) for the fiscal year ending on September 30, 1984, $292,305,000.

(b) Any State receiving financial assistance for energy extension service activities pursuant to the National Energy Extension Service Act shall be required to provide funds from non-Federal sources for such activities in an amount no less than 20 per centum of the amount allocated to such State under such Act during any fiscal year.

PLANT AND CAPITAL EQUIPMENT GENERALLY

42 USC 7270 note.

42 USC 7270.

SEC. 1008. Funds are hereby authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for construction, including planning, construction, acquisition, or modification of facilities, including land acquisition; and acquisition and fabrication of capital equipment not related to construction of the Department of Energy for the following appropriations accounts:

(1) Uranium supply and enrichment activities, including research and development activities,

(A) for the fiscal year ending on September 30, 1982,

(i) $748,250,000 including the amounts authorized in sections 1009 and 1010(a)(1), and

(ii) $200,000 for uranium resource assessment, capital equipment not related to construction;

(B) for the fiscal year ending on September 30, 1983, $1,002,800,000; and

(C) for the fiscal year ending on September 30, 1984, $981,500,000.

(2) Department administration,

(A) for the fiscal year ending on September 30, 1982, $40,963,000 including the amounts authorized in sections 1009(a) and 1010(a)(2).

(3) Energy supply research and development, commercial waste management,

(A) for the fiscal year ending on September 30, 1982, $975,000.

PRIOR YEAR CONSTRUCTION

42 USC 7270 note.

42 USC 7270.

Sec. 1009. (a) Of the amounts authorized to be appropriated for fiscal year 1982 by section 1008, there are authorized to be appropriated in accordance with section 660 of the Department of Energy Organization Act for construction (including planning, construction, acquisition, and modification of facilities, including land acquisition), and for acquisition and fabrication of capital equipment not related to construction, with respect to each prior year project listed in the budget documents submitted to the Congress in support of the fiscal year 1982 budget amounts not to exceed the appropriations amount requested for such project for fiscal year 1982 as set forth in such budget documents, except as otherwise provided (in the case of specific projects) under subsection (b).

(b) The amounts authorized to be appropriated for fiscal year 1982 with respect to the following projects are as follows:

(1) Uranium supply and enrichment activities,

(A) Project 80-UE-5, Motor and switchgear upgrading, gaseous diffusion plants, the amount previously authorized is increased by $6,600,000 for a total project authorization of $26,500,000; and

(B) Project 76-8-g, Enriched uranium production facilities, Portsmouth, Ohio, the amount previously authorized is increased by $601,000,000 for a total project authorization of $1,552,845,000.

Definitions.

(c) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3).

NEW CONSTRUCTION

42 USC 7270 note.

Sec. 1010. (a) Of the amounts appropriated for fiscal year 1982 pursuant to the authorization provided in section 1008, funds may be expended for new plant and capital equipment activities, including planning, construction, acquisition, or modification of facilities, including land acquisition. The following new plant and capital equipment activities are hereby authorized in an amount not to exceed the Federal share of the total estimated cost set forth for each project in budget documents submitted to the Congress in support of the fiscal year 1982 budget. Within such amounts the authorizations for the new plant and capital equipment activities for fiscal year 1982 are limited as follows:

(1) Uranium supply and enrichment activities,

(A) Project 82-R-410, General plant projects, various locations, including Grand Junction, Colorado, $17,600,000;

(B) Project 82-R-411, UF6 cylinders and storage yards, gaseous diffusion plants, $11,000,000;

(C) Project 82-R-412, Cooling tower modifications, Oak Ridge, Tennessee and Portsmouth, Ohio, gaseous diffusion plants, $8,000,000;

(D) Project 82-R-413, Improved UF6 containment and gaseous diffusion plants, $7,100,000;

(E) Project 82-R-414, Purge and cascade withdrawal modifications, gaseous diffusion plant, Paducah, Kentucky, $9,000,000;

(F) Project 82-R-415, Fire alarm system replacement, gaseous diffusion plants, $4,700,000;

(G) Project 82-R-416, Environmental protection and safety modifications, Phase II, gaseous diffusion plants, $2,000,000;

(H) Project 82-R-417, Air distribution system upgrading, gaseous diffusion plant, Paducah, Kentucky, $2,700,000;

(I) Project 82-R-418, Advanced Centrifuge Test Facilities, Oak Ridge, Tennessee, $6,000,000; and

(J) Project 82-N-402, General plant projects, various locations, $650,000.

(2) Departmental administration,

(A) Project 82-A-601, Modifications for energy management, various locations, $14,100,000;

(B) Project 82-A-602, Advanced Test Reactor (ATR) waste heat recovery, Idaho National Engineering Laboratory, Idaho, $4,900,000;

(C) Project 82-A-603, High temperature water distribution system, Los Alamos Scientific Laboratory, New Mexico, $5,000,000;

(D) Project 82-C-601, Plant engineering and design, various locations, $2,000,000; and

(E) Capital equipment not related to construction for departmental administration activities, $5,563,000.

(b) For purposes of this section, the terms "budget documents submitted to the Congress in support of the fiscal year 1982 budget" and "budget documents" mean the Department of Energy Congressional Budget Request, Fiscal Year 1982 (February 1981; DOE/CR-0011-3). Definitions.

GENERAL REQUIREMENT

SEC. 1011. (a) At the same time that the President submits his budget to the Congress for fiscal years 1983 and 1984 for the Department of Energy as required by the Budget and Accounting Act, 1921, there shall be submitted, in addition to any other existing requirements, a tabular listing for the recommended level of program activity and subactivity funding the fiscal years 1983 and 1984 of civilian energy activities in the same format as is contained in the program tables relating to this title appearing in the statement of 31 USC 1.

managers accompanying the conference report on the Omnibus Budget Reconciliation Act of 1981 (H.R. 3982; 97th Congress).

(b) At the same time that the President submits his budget to the Congress those plant and capital amounts requested for that fiscal year, additional authorization requested for prior year projects, and any new construction requests shall also be submitted as a separate request for authorization of appropriations for civilian research and development activities.

CHAPTER 5—UNITED STATES ENERGY TARGETS

ENERGY TARGETS

SEC. 1012. United States energy targets:

ENERGY TARGETS

[Quadrillion Btu's per year]

	1985	1990	1995	2000
Domestic production:				
Oil and NGL	18	17	18	18
Natural gas	18	18	16	15
Coal	21	27	32	41
Nuclear	5	7	8	9
Hydro geothermal	3	4	4	4
Renewables	2	3	5	6
Subtotal	67	76	83	93
Imports:				
Oil	18	14	11	7
Natural gas	2	3	3	2
Coal	−1.8	−2.1	−2.2	−2.4
Subtotal	18	15	11	7
Total supply	85	90	94	100
End-use consumption:				
Petroleum liquids	32	29	28	27
Gas	17	18	18	18
Direct coal	5	6	6	7
Electricity	9	10	11	12
Decentralized solar	2	3	4	5
Subtotal	64	66	67	68
Conversion losses	21	25	28	32
Stock increase				
Total consumption	85	91	94	100

Public Law 97-80
97th Congress

An Act

To amend the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 to authorize the appropriation of funds to the Director of the Federal Emergency Management Agency to carry out the earthquake hazards reduction programs and the fire prevention and control program, and for other purposes.

Nov. 20, 1981
[S. 999]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Earthquake Hazards Reduction Act of 1977 and Federal Fire Prevention and Control Act of 1974, amendment.

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

Sec. 101. (a) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 is amended by adding at the end thereof the following new paragraph:

42 USC 7706.
Appropriation authorization.

"(3) There are authorized to be appropriated to the Director for the fiscal year ending September 30, 1982, $2,000,000 to carry out the provisions of sections 5 and 6 of this Act.".

(b) Section 7(b) of such Act is amended by striking out "and" after "1980;", and by inserting "; and $34,425,000 for the fiscal year ending September 30, 1982" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1980;", and by inserting "; and $27,150,000 for the fiscal year ending September 30, 1982" before the period at the end thereof.

(d) Section 7(d) of such Act is amended by inserting "; and $425,000 for the fiscal year ending September 30, 1982" before the period at the end thereof.

(e) Section 7 of such Act is further amended by adding at the end thereof the following new subsection:

"(e) Funds for Certain Required Adjustments.—For the fiscal year ending September 30, 1982, there are authorized to be appropriated such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by the preceding provisions of this section.".

TITLE II—FIRE PREVENTION AND CONTROL

Sec. 201. Section 17 of the Federal Fire Prevention and Control Act of 1974 is amended by adding at the end thereof the following: 15 USC 2216.

"(d) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, to carry out the purposes of this Act, there are authorized to be appropriated— 15 USC 2210.

"(1) $20,815,000 for the fiscal year ending September 30, 1982, and $23,312,800 for the fiscal year ending September 30, 1983, which amount shall include—

"(A) such sums as may be necessary for the support of research and development at the Fire Research Center of the National Bureau of Standards under section 18 of this Act, 15 USC 278f.

94 Stat. 2049.

which sums shall be in addition to those funds authorized to be appropriated under the National Bureau of Standards Authorization Act for fiscal years 1981 and 1982; and

"(B) $654,000 for the fiscal year ending September 30, 1982, and $732,480 for the fiscal year ending September 30, 1983, for executive direction by the Federal Emergency Management Agency of program activities for which appropriations are authorized by this subsection; and

"(2) such further sums as may be necessary in each of the fiscal years ending September 30, 1982, and September 30, 1983, for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.

15 USC 278f.

The funds authorized under section 18 shall be in addition to funds authorized in any other law for research and development at the Fire Research Center of the National Bureau of Standards.".

Quit-claim deed.

SEC. 202. (a)(1) The Administrator of the United States Fire Administration is authorized and directed to convey by quit-claim deed, without consideration, to Gallaudet College, a body corporate created by Act of Congress approved February 16, 1857, as amended, all right, title, and interest of the United States in and to the following described tract of land, together with all buildings and other improvements thereon, situated in the District of Columbia: Lots numbered 75 to 79 inclusive in square numbered 2745-F in the subdivision made by the Rock Creek Park Estates, Incorporated, as per plat recorded in the Office of the Surveyor for the District of Columbia in liber 115 at folio 193. Lots numbered 66 and 67 in said square numbered 2745-F in the subdivision made by Alpheus H. Ryan, as per plat recorded in said Surveyor's Office in liber 104 at folio 3. Also parts of a tract of land called "Clouin Course". All of above described property being described in one parcel as follows: Beginning for the same at a point of intersection of the southerly line of Kalmia Road, with the west line of lot 80 in square 2745-F in the combination of lots made by Marjorie Webster Junior College, Incorporated, as per plat recorded in said Surveyor's Office in liber 146 at folio 188, and running thence along said west line of said lot 80, south 0 degree 05 minutes west 235.11 feet to the southerly or rear line thereof, and thence along the southerly line of said lot 80, south 69 degrees 18 minutes 10 seconds east 437.19 feet more or less to the west line of a 16 foot wide public alley; thence running south 0 degree 05 minutes west along said west line of said alley 20.16 feet; thence south 59 degrees 53 minutes 13 seconds west 610.64 feet to the northeasterly line of 17th Street, thence along said line of said street, deflecting to the right with the arc of a circle whose radius is 869.11 feet, 90.07 feet to a point of tangent, and running thence north 30 degrees 11 minutes 40 seconds west and still along the said northeasterly line of 17th Street, 538.81 feet to a point of curve; thence deflecting to the right with the arc of a circle whose radius is 41.51 feet northeasterly 66.35 feet to a point of tangency in the south line of Kalmia Road (60 feet wide) thence with the south line of said Kalmia Road, north 61 degrees 24 minutes east 187.84 feet; thence south 28 degrees 36 minutes east 15 feet to the most southerly line of Kalmia Road (90 feet wide); thence with the most southerly line of said road, and deflecting to the right with the arc of a circle whose radius is 385 feet, easterly 260 feet to the point of beginning.

(2) At the date hereof, the above described part of Clouin Course formerly taxed as parcel 77/63 is designated on the records of the

Assessor for the District of Columbia for assessment and taxation purposes as lot 815 in square 2745-F.

(3) Lot numbered 80 in square numbered 2745-F in the combination of lots made by Marjorie Webster Junior College, Incorporated, is as per plat recorded in said Surveyor's Office in liber 146 at folio 188.

Repeal.
15 USC 2221.

(b) Section 25 of the Federal Fire Prevention and Control Act of 1974 is repealed.

TITLE III—MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION

42 USC 7701 note.
15 USC 2201 note.
94 Stat. 2260.
50 USC app. 2251 note.

SEC. 301. (a) Pursuant to the Earthquake Hazards Reduction Act of 1977, the Federal Fire Prevention and Control Act of 1974, and title III of Public Law 96-472 (which recognized that "natural and man-made hazards may not be independent of one another in any given disaster"), and further recognizing that emergency personnel are often called upon to meet emergencies outside of their primary field of service, section 301 of Public Law 96-472 is amended—

(1) by inserting before the period at the end of the first sentence the following: ", and it is also recognized that emergency personnel are often called upon to meet emergencies outside of their primary field of service"; and

(2) by striking out "and" after the semicolon at the end of paragraph (5), by striking out the period at the end of paragraph (6) and inserting in lieu thereof a semicolon, and by adding after paragraph (6) the following new paragraphs:

"(7) conduct emergency first response programs so as to better train and prepare emergency personnel to meet emergencies outside of their primary field of service; and

"(8) conduct a program of planning, preparedness, and mitigation related to the multiple direct and indirect hazards resulting from the occurrence of large earthquakes.".

50 USC app. 2251 note.

(b) Section 302 of Public Law 96-472 is amended—

(1) by inserting "(a)" after "SEC. 302."; and

(2) by adding at the end thereof the following new subsection:

Appropriation authorization

"(b) For the fiscal year ending September 30, 1982, there are authorized to be appropriated to the Director—

"(1) $4,939,000 to carry out section 301, which amount shall include—

"(A) not less than $700,000 to carry out the purposes of paragraphs (1) through (6) of such section;

"(B) such sums as may be necessary, but in any case not less than $939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section; and

"(C) not less than $3,300,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earthquake; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.".

TITLE IV—GENERAL PROVISIONS

Transfer of funds.

SEC. 401. Funds authorized to be appropriated by title I, title II, or title III may be transferred among the program categories listed in that title, except that neither the total funds transferred from any such program category nor the total funds transferred to any such program category may exceed 10 per centum of the amount authorized for that program category unless—

Report to congressional committees.

(1) thirty calendar days have passed after the Director or his designee has transmitted to the Speaker of the House of Representatives, to the President of the Senate, to the chairman of the Committee on Science and Technology of the House of Representatives, and to the chairman of the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete explanation of the transfer involved and the reason for it, or

(2) before the expiration of such thirty days both chairmen have written to the Director stating that they have no objection to the proposed transfer.

Ante, p. 1081.
Ante, p. 1081.
Ante, p. 1083.

For purposes of this section, the program activity or activities for which funds are authorized by each of the following provisions of law as amended by this Act shall each be deemed to constitute a "program category": Subsections (a), (b), (c), (d), and (e) of section 7 of the Earthquake Hazards Reduction Act of 1977; paragraphs (1)(A), (1)(B), and (2) of section 17(d) of the Federal Fire Prevention and Control Act of 1974; and paragraphs (1)(A), (1)(B), (1)(C), and (2) of section 302(b) of Public Law 96-472; and section 302(c) of such Public Law.

Approved November 20, 1981.

LEGISLATIVE HISTORY—S. 999 (H.R. 3356):

HOUSE REPORTS: No. 97-59, Pt. I (Comm. on Interior and Insular Affairs) and Pt. II (Comm. on Science and Technology) both accompanying H.R. 3356.
SENATE REPORT No. 97-39 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 127 (1981):
- Apr. 29, considered and passed Senate.
- Oct. 13, 14, H.R. 3356 considered and passed House; proceedings vacated and S. 999, amended, passed in lieu.
- Oct. 16, Senate concurred in House amendments with an amendment.
- Nov. 5, House concurred in Senate amendment with amendments; Senate concurred in House amendments.

Public Law 97-96
97th Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

Dec. 21, 1981
[S. 1098]

Be it enacted by the Senate of House of Representatives of the United States of America in Congress assembled, That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1981:

National Aeronautics and Space Administration Authorization Act, 1982.

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $2,189,000,000;
(2) Space flight operations, $907,900,000;
(3) Expendable launch vehicles, $31,200,000;
(4) Physics and astronomy, $333,400,000;
(5) Planetary exploration, $215,300,000;
(6) Life sciences, $43,500,000;
(7) Space applications, $398,600,000;
(8) Technology utilization, $12,600,000;
(9) Aeronautical research and technology, $284,800,000;
(10) Space research and technology, $129,300,000; and
(11) Tracking and data acquisition, $408,180,000.

Facilities construction.

(b) For "Construction of facilities", including land acquisition, as follows:

(1) Modification of 12-foot pressure wind tunnel, Ames Research Center, $18,500,000;

(2) Modifications to space flight operations facility, Jet Propulsion Laboratory, $9,300,000;

(3) Rehabilitation of utility control system, various buildings, Lyndon B. Johnson Space Center, $680,000;

(4) Construction of waste material incinerator, John F. Kennedy Space Center, $895,000;

(5) Repair of operations and checkout building roof, John F. Kennedy Space Center, $825,000;

(6) Modifications for enhanced 20-inch supersonic wind tunnel, Langley Research Center, $2,950,000;

(7) Modifications for high pressure turbine corrosion and thermal fatigue testing, Lewis Research Center, $1,200,000;

(8) Modification and relocation of 26-meter antenna, STDN, Goldstone, California, $4,700,000;

(9) Relocation of DSS-44 antenna to Tidbinbilla, Australia, $2,200,000;

(10) Space Shuttle facilities at various locations as follows:

(A) Construction of solid rocket booster processing and segment storage facilities, John F. Kennedy Space Center, $12,400,000;

(B) Modifications to firing rooms, John F. Kennedy Space Center, $3,100,000;

(C) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $2,785,000;

(D) Modifications to Building 30 for Shuttle operations, Lyndon B. Johnson Space Center, $650,000;

(E) Minor Shuttle-unique projects, various locations, $1,115,000;

(11) Repair of facilities at various locations, not in excess of $500,000 per project, $12,800,000;

(12) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $17,700,000;

(13) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $2,320,000; and

(14) Facility planning and design not otherwise provided for, $10,000,000.

Research and program management.

(c) For "Research and program management", $1,114,300,000 and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Research and development.

(d) Notwithstanding the provisions of subsection 1(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

Scientific consultations or extraordinary expenses.

(f) Appropriations made pursuant to subsection 1(c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections 1(a) and 1(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection 1(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 2. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (13), inclusive, of subsection 1(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

Report to congressional committees.

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

Transfer of funds.

SEC. 3. Not to exceed one-half of 1 percent of the funds appropriated pursuant to subsection 1(a) hereof may be transferred to the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 1(b) hereof (other than funds appropriated pursuant to paragraph (14) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 1(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Report to congressional committees.

SEC. 4. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 1(a) and 1(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

Notification to congressional committees.

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Federal research funds, geographical distribution. 42 USC 2459 note.

SEC. 5. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 6. Section 7 of title 18, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(6) Any vehicle used or designed for flight or navigation in space and on the registry of the United States pursuant to the Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies and the Convention on Registration of Objects Launched into Outer Space, while that vehicle is in flight, which is from the moment when all external doors are closed on Earth following embarkation until the moment when one such door is opened on Earth for disembarkation or in the case of a forced landing, until the competent authorities take over the responsibility for the vehicle and for persons and property aboard.".

42 USC 2451 note. 42 USC 2457.

SEC. 7. The National Aeronautics and Space Act of 1958, as amended, is amended by inserting at the end of section 305, the following new subsections:

"(k) Any object intended for launch, launched, or assembled in outer space shall be considered a vehicle for the purpose of section 272 of title 35, United States Code.

"(l) The use or manufacture of any patented invention incorporated in a space vehicle launched by the United States Government for a person other than the United States shall not be considered to be a use or manufacture by or for the United States within the meaning of section 1498(a) of title 28, United States Code, unless the Administration gives an express authorization or consent for such use or manufacture.".

Sec. 8. Section 6 of the National Aeronautics and Space Administration Authorization Act, 1970, as amended (42 U.S.C. 2462), is repealed. Repeal.

Sec. 9. Appropriations hereby authorized for space transportation system upper stages in section 1(a)(2) shall not be used to initiate sole-source procurement of a new upper stage until NASA in cooperation with other agencies has reviewed alternative systems and assessed competitive procurement of a new upper stage to satisfy national requirements, and until 30 days after reporting its findings to the authorizing committees of the House of Representatives and the Senate.

Sec. 10. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1982". Short title.

Approved December 21, 1981.

LEGISLATIVE HISTORY—S. 1098 (H.R. 1257):

HOUSE REPORTS: No. 97-32 accompanying H.R. 1257 (Comm. on Science and Technology) and No. 97-351 (Comm. of Conference).
SENATE REPORT No. 97-100 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 127 (1981):
May 21, considered and passed Senate.
June 23, H.R. 1257 considered and passed House; proceedings vacated and S. 1098, amended, passed in lieu.
Nov. 23, Senate agreed to conference report.
Dec. 8, House agreed to conference report.

Public Law 97-219
97th Congress

An Act

To amend the Small Business Act to strengthen the role of the small, innovative firms in federally funded research and development, and to utilize Federal research and development as a base for technological innovation to meet agency needs and to contribute to the growth and strength of the Nation's economy.

July 22, 1982
[S. 881]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Innovation Development Act of 1982.
15 USC 631 note.
15 USC 638 note.

SECTION 1. This Act may be cited as the "Small Business Innovation Development Act of 1982".

SEC. 2. (a) The Congress finds that—

(1) technological innovation creates jobs, increases productivity, competition, and economic growth, and is a valuable counterforce to inflation and the United States balance-of-payments deficit;

(2) while small business is the principal source of significant innovations in the Nation, the vast majority of federally funded research and development is conducted by large businesses, universities, and Government laboratories; and

(3) small businesses are among the most cost-effective performers of research and development and are particularly capable of developing research and development results into new products.

(b) Therefore, the purposes of the Act are—

(1) to stimulate technological innovation;

(2) to use small business to meet Federal research and development needs;

(3) to foster and encourage participation by minority and disadvantaged persons in technological innovation; and

(4) to increase private sector commercialization innovations derived from Federal research and development.

15 USC 638.

SEC. 3. Section 9(b) of the Small Business Act is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(4) to develop and maintain a source file and an information program to assure each qualified and interested small business concern the opportunity to participate in Federal agency small business innovation research programs;

"(5) to coordinate with participating agencies a schedule for release of SBIR solicitations, and to prepare a master release schedule so as to maximize small businesses' opportunities to respond to solicitations;

"(6) to independently survey and monitor the operation of SBIR programs within participating Federal agencies; and

Report to congressional committees.

"(7) to report not less than annually to the Committee on Small Business of the Senate and the Committee on Small Business of the House of Representatives on the SBIR programs of the Federal agencies and the Administration's information and monitoring efforts related to the SBIR programs.".

15 USC 638.

SEC. 4. Section 9 of the Small Business Act is amended by adding at the end thereof the following new subsections:

Definitions.

"(e) For the purpose of this section—

"(1) the term 'extramural budget' means the sum of the total obligations minus amounts obligated for such activities by employees of the agency in or through Government-owned, Government-operated facilities, except that for the Agency for International Development it shall not include amounts obligated solely for general institutional support of international research centers or for grants to foreign countries;

"(2) the term 'Federal agency' means an executive agency as defined in section 105 of title 5, United States Code, or a military department as defined in section 102 of such title, except that it does not include any agency within the Intelligence Community (as the term is defined in section 3.4(f) of Executive Order 12333 or its successor orders);

"(3) the term 'funding agreement' means any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance of experimental, developmental, or research work funded in whole or in part by the Federal Government;

"(4) the term 'Small Business Innovation Research Program' or 'SBIR' means a program under which a portion of a Federal agency's research or research and development effort is reserved for award to small business concerns through a uniform process having—

"(A) a first phase for determining, insofar as possible, the scientific and technical merit and feasibility of ideas submitted pursuant to SBIR program solicitations;

"(B) a second phase to further develop the proposed ideas to meet the particular program needs, the awarding of which shall take into consideration the scientific and technical merit and feasibility evidenced by the first phase and, where two or more proposals are evaluated as being of approximately equal scientific and technical merit and feasibility, special consideration shall be given to those proposals that have demonstrated third phase, non-Federal capital commitments; and

"(C) where appropriate, a third phase in which non-Federal capital pursues commercial applications of the research or research and development and which may also involve follow-on non-SBIR funded production contracts with a Federal agency for products or processes intended for use by the United States Government; and

"(5) the term 'research' or 'research and development' means any activity which is (A) a systematic, intensive study directed toward greater knowledge or understanding of the subject studied; (B) a systematic study directed specifically toward applying new knowledge to meet a recognized need; or (C) a systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

Research or research and development, budget.

"(f)(1) Each Federal agency which has an extramural budget for research or research and development in excess of $100,000,000 for fiscal year 1982, or any fiscal year thereafter, shall expend not less than 0.2 per centum of its extramural budget in fiscal year 1983 or in such subsequent fiscal year as the agency has such budget, not less than 0.6 per centum of such budget in the second fiscal year thereafter, not less than 1 per centum of such budget in the third fiscal year thereafter, and not less than 1.25 per centum of such budget in all subsequent fiscal years with small business concerns specifically in connection with a small business innovation research program which meets the requirements of the Small Business Innovation Development Act of 1982 and regulations issued thereunder: *Provided,* That any Federal agency which has an extramural budget for research or research and development in excess of $10,000,000,000 for fiscal year 1982 shall expend not less than 0.1 per centum of its extramural budget in fiscal year 1983, not less than 0.3 per centum of such budget in the second fiscal year thereafter, not less than 0.5 per centum of such budget in the third fiscal year thereafter, not less than 1 per centum of such budget in the fourth fiscal year thereafter, and not less than 1.25 per centum of such budget in all subsequent fiscal years with small business concerns specifically in connection with a small business innovation research program which meets the requirements of the Small Business Innovation Development Act of 1982 and regulations issued thereunder: *Provided further,* That a Federal agency shall not make available for the purpose of meeting the requirements of this subsection an amount of its extramural budget for basic research or research and development which exceeds the percentages specified herein. Funding agreements with small business concerns for research or research and development which result from competitive or single source selections other than under a small business innovation research program shall not be counted as meeting any portion of the percentage requirements of this subsection.

"(2) Amounts appropriated for atomic energy defense programs of the Department of Energy shall for the purposes of paragraph (1) be excluded from the amount of the research or research and development budget of that Department.

Small business innovation research program, requirements.

"(g) Each Federal agency required by subsection (f) to establish a small business innovation research program shall, in accordance with this Act and regulations issued hereunder—

"(1) unilaterally determine categories of projects to be in its SBIR program;

"(2) issue small business innovation research solicitations in accordance with a schedule determined cooperatively with the Small Business Administration;

"(3) unilaterally receive and evaluate proposals resulting from SBIR proposals;

"(4) unilaterally select awardees for its SBIR funding agreements;

"(5) administer its own SBIR funding agreements (or delegate such administration to another agency);

"(6) make payments to recipients of SBIR funding agreements on the basis of progress toward or completion of the funding agreement requirements; and

"(7) make an annual report on the SBIR program to the Small Business Administration and the Office of Science and Technology Policy.

"(h) In addition to the requirements of subsection (f), each Federal agency which has a budget for research or research and development in excess of $20,000,000 for any fiscal year beginning with fiscal year 1983 or subsequent fiscal year shall establish goals specifically for funding agreements for research or research and development to small business concerns, and no goal established under this subsection shall be less than the percentage of the agency's research or research and development budget expended under funding agreements with small business concerns in the immediately preceding fiscal year.

"(i) Each Federal agency required by this section to have an SBIR program or to establish goals shall report annually to the Small Business Administration the number of awards pursuant to grants, contracts, or cooperative agreements over $10,000 in amount and the dollar value of all such awards, identifying SBIR awards and comparing the number and amount of such awards with awards to other than small business concerns.

Policy directives.

"(j) The Small Business Administration, after consultation with the Administrator of the Office of Federal Procurement Policy, the Director of the Office of Science and Technology Policy, and the Intergovernmental Affairs Division of the Office of Management and Budget, shall, within one hundred and twenty days of the enactment of the Small Business Innovation Development Act of 1982, issue policy directives for the general conduct of the SBIR programs within the Federal Government, including providing for—

"(1) simplified, standardized, and timely SBIR solicitations;

"(2) a simplified, standardized funding process which provides for (A) the timely receipt and review of proposals; (B) outside peer review for at least phase two proposals, if appropriate; (C) protection of proprietary information provided in proposals; (D) selection of awardees; (E) retention of rights in data generated in the performance of the contract by the small business concern; (F) transfer of title to property provided by the agency to the small business concern if such a transfer would be more cost effective than recovery of the property by the agency; (G) cost sharing; and (H) cost principles and payment schedules;

"(3) exemptions from the regulations under paragraph (2) if national security or intelligence functions clearly would be jeopardized;

"(4) minimizing regulatory burden associated with participation in the SBIR program for the small business concern which will stimulate the cost-effective conduct of Federal research and development and the likelihood of commercialization of the results of research and development conducted under the SBIR program; and

"(5) simplified, standardized, and timely annual report on the SBIR program to the Small Business Administration and the Office of Science and Technology Policy.

"(k) The Director of the Office of Science and Technology Policy, in consultation with the Federal Coordinating Council for Science, Engineering and Research, shall, in addition to such other responsibilities imposed upon him by the Small Business Innovation Development Act of 1982—

"(1) independently survey and monitor all phases of the implementation and operation of SBIR programs within agencies required to establish an SBIR program, including compliance with the expenditures of funds according to the requirements of subsection (f) of this section; and

"(2) report not less than annually, and at such other times as the Director may deem appropriate, to the Committees on Small Business of the Senate and the House of Representatives on all phases of the implementation and operation of SBIR programs within agencies required to establish an SBIR program, together with such recommendations as the Director may deem appropriate.".

Report to congressional committees.

SEC. 5. Effective October 1, 1988, paragraphs (4) through (7) of section 9(b) of the Small Business Act (as added by section 3) and subsections (e) through (k) of section 9 of the Small Business Act (as added by section 4) are repealed.

15 USC 638.

SEC. 6. The Comptroller General shall, not more than five years after the date of enactment of this Act, transmit a report to the Senate and the House of Representatives on the implementation of, and nature of research conducted under this Act, including the judgments of the heads of Departments and agencies as to the effect of this Act on research programs.

Report to Congress.
15 USC 638 note.

Approved July 22, 1982.

LEGISLATIVE HISTORY—S. 881 (H.R. 4326):

HOUSE REPORTS: No. 97-349, Pts. I-7 accompanying H. R. 4326 (Comms. on Small Business; Energy and Commerce; Veterans' Affairs; Science and Technology; Foreign Affairs; Armed Services; and Permanent Select Committee on Intelligence), respectively.
SENATE REPORT No. 97-194 (Comm. on Small Business).
CONGRESSIONAL RECORD:
Vol. 127 (1981): Dec. 7, 8, considered and passed Senate.
Vol. 128 (1982): June 17, 22, 23, H.R. 4326 considered and passed House; passage vacated and S. 881, amended, passed in lieu.
June 29, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:
Vol. 18, No. 29 (1982): July 22, Presidential statement.

TAX EQUITY AND FISCAL RESPONSIBILITY ACT OF 1982

Public Law 97-248
97th Congress

An Act

Sept. 3, 1982
[H.R. 4961]

To provide for tax equity and fiscal responsibility, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Tax Equity and Fiscal Responsibility Act of 1982.

26 USC 1 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS; AMENDMENT OF 1954 CODE.

(a) Short Title.—This Act may be cited as the "Tax Equity and Fiscal Responsibility Act of 1982".

(b) Table of Contents.—

Sec. 1. Short title; table of contents; amendment of 1954 Code.

TITLE I—PROVISIONS RELATING TO SAVINGS IN HEALTH AND INCOME SECURITY PROGRAMS

Subtitle A—Medicare

Part I—Changes in Payments for Services

Subpart A—Amount of Payment for Institutional Services

Sec. 101. Payment for inpatient hospital services.
Sec. 102. Single reimbursement limit for skilled nursing facilities.
Sec. 103. Elimination of inpatient routine nursing salary cost differential.
Sec. 104. Elimination of duplicate overhead payments for outpatient services.
Sec. 105. Single reimbursement limit for home health agencies.
Sec. 106. Prohibiting payment for Hill-Burton free care.
Sec. 107. Prohibiting payment for anti-unionization activities.
Sec. 108. Reimbursement of provider-based physicians.
Sec. 109. Prohibiting recognition of payments under certain percentage arrangements.
Sec. 110. Elimination of lesser-of-cost-or-charge provision.
Sec. 111. Elimination of private room subsidy.

Subpart B—Payments for Other Services

Sec. 112. Reimbursement for inpatient radiology and pathology services.
Sec. 113. Reimbursement for assistants at surgery.
Sec. 114. Payments to health maintenance organizations and competitive medical plans.
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Subpart C—Other Payment Provisions

Sec. 116. Medicare payments secondary for older workers covered under group health plans.
Sec. 117. Interest charges on overpayments and underpayments.
Sec. 118. Audit and medical claims review.
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Sec. 120. Temporary delay in periodic interim payments.

Part II—Changes in Benefits, Premiums, and Enrollment

Sec. 121. Medicare coverage of Federal employees.
Sec. 122. Hospice care.
Sec. 123. Coverage of extended care services without regard to three-day prior hospitalization requirement.
Sec. 124. Provision temporarily holding part B premium at constant percentage of cost.
Sec. 125. Special enrollment provisions for merchant seamen.

Part III—Miscellaneous Provisions

Sec. 126. Extending medicare proficiency examination authority.
Sec. 127. Regulations regarding access to books and records.
Sec. 128. Technical corrections to Omnibus Budget Reconciliation Act of 1981.

Subtitle B—Medicaid

Sec. 131. Copayments by medicaid recipients.
Sec. 132. Modifications in lien provisions.
Sec. 133. Limitation on Federal financial participation in erroneous medical assistance expenditures.
Sec. 134. Medicaid coverage of home care for certain disabled children.
Sec. 135. Six-month moratorium on deregulation of skilled nursing and intermediate care facilities.
Sec. 136. Medicaid program in American Samoa.
Sec. 137. Technical corrections from Omnibus Budget Reconciliation Act of 1981.

Subtitle C—Utilization and Quality Control Peer Review

Sec. 141. Short title of subtitle.
Sec. 142. Requirement for Secretary to enter into contracts.
Sec. 143. Establishment of utilization and quality control peer review program.
Sec. 144. Facilitation of private review.
Sec. 145. Waiver of liability provision.
Sec. 146. Medicaid provisions.
Sec. 147. Demonstration projects for competitive bidding and other reimbursement methods.
Sec. 148. Technical amendments.
Sec. 149. Effective date.
Sec. 150. Maintenance of current PSRO agreements.

Subtitle D—Aid to Families with Dependent Children

Sec. 151. Rounding of eligibility and benefit amounts.
Sec. 152. Effective date of application; proration of first month's AFDC benefit.
Sec. 153. Absence from home solely by reason of uniformed service.
Sec. 154. Job search.
Sec. 155. Proration of standard amount for shelter and utilities.
Sec. 156. Limitation on Federal financial participation in erroneous assistance expenditures.
Sec. 157. Exclusion from income of certain State payments.
Sec. 158. Extension of time for States to establish a work incentive demonstration program.
Sec. 159. Exclusion from income.
Sec. 160. Technical amendments to social services and foster care provisions in 1981 Reconciliation Act.
Sec. 161. Delayed effective date in cases requiring conforming State legislation.

Subtitle E—Child Support Enforcement

Sec. 171. Fee for services to non-AFDC families.
Sec. 172. Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.
Sec. 173. Reimbursement of State agency in initial month of ineligibility for AFDC.
Sec. 174. Reduction in certain Federal payments to States under child support enforcement program.
Sec. 175. Technical amendments to child support enforcement provisions in 1981 Reconciliation Act.
Sec. 176. Delayed effective date in cases requiring State legislation.

Subtitle F—Supplemental Security Income

Sec. 181. Effective date of application; proration of initial SSI benefit payment.
Sec. 182. Rounding of SSI eligibility and benefit amounts.
Sec. 183. Coordination of SSI and OASDI cost-of-living adjustments.
Sec. 184. Phaseout of hold harmless protection.
Sec. 185. Exclusion from resources of burial plots and certain funds set aside for burial expenses.
Sec. 186. Mandatory passthrough under State supplementation provisions.
Sec. 187. Treatment of unnegotiated checks under the supplemental security income program.

Subtitle G—Unemployment Compensation

Sec. 191. Rounding of benefit amounts.

Sec. 192. Use of certain amounts transferred to State unemployment funds.
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Subtitle B—Taxation of Unemployment Compensation

Sec. 611. Taxation of unemployment compensation.

(c) AMENDMENT OF 1954 CODE.—Except as otherwise expressly provided, whenever in titles II, III, and IV an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

TITLE V—AIRPORT AND AIRWAY IMPROVEMENT

Airport and Airway Improvement Act of 1982.

SECTION 501. SHORT TITLE.

49 USC 2201 note.

This title may be cited as the "Airport and Airway Improvement Act of 1982".

SEC. 502. DECLARATION OF POLICY.

49 USC 2201.

(a) IN GENERAL.—The Congress hereby finds and declares that—

(1) the safe operation of the airport and airway system will continue to be the highest aviation priority;

(2) the continuation of airport and airway improvement programs and more effective management and utilization of the Nation's airport and airway system are required to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense;

(3) this title should be administered in a manner to provide adequate navigation aids and airport facilities, including reliever airports and reliever heliports, for points where scheduled commercial air service is provided;

(4) this title should be administered in a manner consistent with a comprehensive airspace system plan to maximize the use of safety facilities, with highest priority for commercial service airports, including but not limited to, the goal of installing, operating, and maintaining, to the extent possible under available funds and given other safety needs, a precision approach system and a full approach light system for each primary runway, grooving, or friction treatment of all primary and secondary runways, a nonprecision instrument approach for all secondary runways, runway end identifier lights on all runways that do not have an approach light system, electronic or visual vertical guidance on all runways, runway edge lighting and marking, and radar approach coverage for all airport terminal areas;

(5) all airport and airway programs should be administered in a manner consistent with the provisions of sections 102 and 103 of the Federal Aviation Act of 1958, with due regard for the goals expressed therein of fostering competition, preventing unfair methods of competition in air transportation, maintaining essential air transportation, and preventing unjust and discriminatory practices;

49 USC 1302, 1303.

(6) reliever airports make an important contribution to the efficient operation of the airport and airway system, and special emphasis should be given to their development;

(7) aviation facilities should be constructed and operated with due regard to minimizing current and projected noise impacts on nearby communities;

(8) the Federal administrative requirements placed upon airport sponsors can be reduced and simplified through the use of a single project application to cover all airport improvement projects contained in the airport's annual expenditure program; and

(9) it is in the national interest to develop in metropolitan areas an integrated system of airports designed to provide expeditious access and maximum safety.

(b) TRANSPORTATION PLANNING.—It is declared to be in the national interest to encourage and promote the development of transportation systems embracing various modes of transportation in a manner that will serve the States and local communities efficiently and effectively. To accomplish this objective, the Secretary shall cooperate with State and local officials in the development of airport plans and programs which are formulated on the basis of overall transportation needs and coordinated with other transportation planning with due consideration to comprehensive long-range land-use and access plans and overall social, economic, environmental, system performance, and energy conservation goals and objectives. The process shall be continuing, cooperative, and comprehensive to the degree appropriate based on the complexity of the transportation problems.

49 USC 2202.

SEC. 503. DEFINITIONS.

(a) IN GENERAL.—As used in this title—

(1) "Airport" means any area of land or water which is used, or intended for use, for the landing and takeoff of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon.

(2) "Airport development" means any of the following activities, if undertaken by the sponsor, owner or operator of a public-use airport:

(A) any work involved in constructing, reconstructing, repairing, or improving a public-use airport or portion thereof, including—

(i) the removal, lowering, relocation, and marking and lighting of airport hazards; and

(ii) the preparation of plans and specifications, including field investigations incidental thereto;

(B) any acquisition or installation at or by a public-use airport of—

(i) navigation and other aids (including, but not limited to, precision approach systems) used by aircraft for landing at or taking off from such airport, including any necessary site preparation thereby required;

(ii) safety or security equipment required by the Secretary by rule or regulation for the safety or security of persons and property at such airport, or specifically approved by the Secretary as contributing significantly to the safety or security of persons and property at such airport;

(iii) snow removal equipment;

(iv) aviation-related weather reporting equipment; or

(v) equipment to measure runway surface friction; and

(C) any acquisition of land or of any interest therein, or of any easement through or other interest in airspace, including land for future airport development, which is necessary to permit any airport development described in subparagraph (A) or (B) of this paragraph or to remove, mitigate, prevent, or limit the establishment of airport hazards.

(3) "Airport hazard" means any structure or object of natural growth located on or in the vicinity of a public-use airport, or any use of land near such an airport, which obstructs the airspace required for the flight of aircraft in landing or taking off at such airport or is otherwise hazardous to such landing or taking off of aircraft.

(4) "Airport planning" means planning as defined by such regulations as the Secretary shall prescribe, and includes integrated airport system planning.

(5) "Commercial service airport" means a public airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft.

(6) "Government aircraft" means aircraft owned and operated by the United States.

(7) "Integrated airport system planning" means the initial as well as continuing development for planning purposes of information and guidance to determine the extent, type, nature, location, and timing of airport development needed in a specific area to establish a viable, balanced, and integrated system of public-use airports. It includes identification of system needs, development of estimates of systemwide development costs, and the conduct of such studies, surveys, and other planning actions, including those related to airport access, as may be necessary to determine the short-, intermediate-, and long-range aeronautical demands required to be met by a particular system of airports. It also includes the establishment by a State of standards, other than standards for safety of approaches, for airport development at public-use airports which are not primary airports.

(8) "Landing area" means that area used or intended to be used for the landing, takeoff, or surface maneuvering of aircraft.

(9) "Passengers enplaned" means domestic, territorial, and international revenue passenger enplanements in the States in scheduled and nonscheduled service of aircraft in intrastate, interstate, and foreign commerce as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.

(10) "Planning agency" means any planning agency designated by the Secretary which is authorized by the laws of the State or States or political subdivisions concerned to engage in areawide planning for the areas in which assistance under this title is to be used.

(11) "Primary airport" means a commercial service airport which is determined by the Secretary to have .01 percent or

more of the total number of passengers enplaned annually at all commercial service airports.

(12) "Project" means a project (or separate projects submitted together) for the accomplishment of airport development or airport planning, including the combined submission of all projects which are to be undertaken at an airport in a fiscal year.

(13) "Project costs" means any costs involved in accomplishing a project.

(14) "Project grant" means a grant of funds by the Secretary to a sponsor for the accomplishment of one or more projects.

(15) "Public agency" means a State or any agency of a State, a municipality or other political subdivision of a State, a tax-supported organization, or an Indian tribe or pueblo.

(16) "Public airport" means any airport which is used or to be used for public purposes, under the control of a public agency, the landing area of which is publicly owned.

(17) "Public-use airport" means—

(A) any public airport,

(B) any privately owned reliever airport, and

(C) any privately owned airport which is determined by the Secretary to enplane annually 2,500 or more passengers and receive scheduled passenger service of aircraft,

which is used or to be used for public purposes.

(18) "Reliever airport" means an airport designated by the Secretary as having the function of relieving congestion at a commercial service airport and providing more general aviation access to the overall community.

(19) "Reliever heliport" means a heliport designated by the Secretary as having the function of relieving congestion at a commercial service airport, by means of diverting potential fixed-wing enplaned passengers to helicopter carriers.

(20) "Secretary" means the Secretary of Transportation.

(21) "Sponsor" means (A) any public agency which, either individually or jointly with one or more other public agencies, submits to the Secretary, in accordance with this title, an application for financial assistance, and (B) any private owner of a public-use airport who submits to the Secretary, in accordance with this title, an application for financial assistance for such airport.

(22) "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and Guam.

(23) "Trust Fund" means the Airport and Airway Trust Fund established by section 9502 of the Internal Revenue Code of 1954.

Ante, p. 565.

(24) "United States share" means that portion of the project costs of projects for airport development or airport planning approved pursuant to section 509 of this title which is to be paid from funds made available for the purposes of this title.

(b) Amounts Made Available.—Whenever in this title reference is made to the amount made available for a fiscal year under section 505 of this title, such reference shall mean the amount made available for obligation under subsection (a) of section 505 for that fiscal year as reduced or limited by any Act of Congress enacted after the date of enactment of this title.

SEC. 504. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

49 USC 2203.

(a) Formulation of Airport Plan.—Not later than two years after the date of enactment of this title and every two years thereafter, the Secretary shall publish the status of the existing national airport system plan to provide for the development of public-use airports in the United States. The plan shall include the type and estimated cost of eligible airport development considered by the Secretary to be necessary to provide a safe, efficient, and integrated system of public-use airports to anticipate and meet the needs of civil aeronautics, to meet requirements in support of the national defense as determined by the Secretary of Defense, and to meet identified needs of the Postal Service. Airport development identified by this plan shall not be limited to the requirements of any classes or categories of public-use airports. In reviewing and revising the plan, the Secretary shall consider the needs of all segments of civil aviation, and take into consideration, among other things, the relationship of each airport to (1) the rest of the transportation system in the particular area, (2) the forecasted technological developments in aeronautics, and (3) developments forecasted in other modes of intercity transportation. After the date of enactment of this title, the revised national airport system plan shall be known as the national plan of integrated airport systems.

(b) Formulation of Airway Plan.—(1) The Administrator of the Federal Aviation Administration shall prepare (subject to the requirements of section 506(f) of this title) and submit to the Congress, not later than ninety days after the date of enactment of this title, a national airways system plan. The Administrator shall review, revise, and publish such plan before the beginning of each fiscal year thereafter. The plan shall set forth, for a ten-year period, the research, engineering, and development programs and the facilities and equipment considered by the Administrator necessary for a system of airways, air traffic services, and navigation aids which will meet the forecasted needs of civil aeronautics, meet requirements in support of the national defense as determined by the Secretary of Defense, and provide the highest degree of safety in air commerce. In addition, such plan shall set forth—

(A) for the first two years of the plan, detailed annual estimates of (i) the number, type, location, and cost of acquisition, operation, and maintenance of required facilities and services, (ii) the cost of research, engineering, and development required to improve safety, system capacity, and efficiency, and (iii) manpower levels required for all the activities described in this subparagraph;

(B) for the third, fourth, and fifth years of the plan, estimates of the total cost of each major program for such three-year period, and any additional major research programs, acquisition of systems and facilities, and changes in manpower levels that may be required to meet long-range objectives and that may have significant impact on future funding requirements; and

(C) a ten-year investment plan which considers long-range objectives considered by the Administrator to be necessary to ensure that safety is given the highest priority in providing for a safe and efficient airway system and to meet the current and projected growth of aviation and the requirements of interstate commerce, the Postal Service, and the national defense.

Report to Congress.

(2) On or before the first day of April of each year the Secretary shall report to the Congress on the operations of the national airways system during the last completed fiscal year. The report shall include a review of the operations of the Federal Aviation Administration, including, but not limited to, a detailed report on programs intended to improve the safety of flight operations and the capacity and efficiency of the national airways system, any significant problems encountered in these programs, a summary of funds committed in each major program area, and a report on amounts appropriated but not expended for such programs.

(c) CONSULTATION WITH FEDERAL AND PUBLIC AGENCIES AND AVIATION COMMUNITY.—In reviewing and revising the national airport system plan, the Secretary shall consult, to the extent feasible and as appropriate, with other Federal and public agencies, and with the aviation community.

(d) CONSULTATION WITH DEPARTMENT OF DEFENSE.—(1) The Department of Defense shall make domestic military airports and airport facilities available for civil use to the maximum extent feasible. In advising the Secretary of national defense requirements pursuant to subsection (a) of this section, the Secretary of Defense shall indicate the extent to which domestic military airports and airport facilities will be available for civil use.

(2) Not later than 180 days after the date of enactment of this title, the Comptroller General shall submit to the Congress an evaluation of the feasibility of making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. With respect to those military airports determined to be most feasible for joint civil and military use, such evaluation shall include an estimate of the costs and the development requirements involved in making such airports available for joint civil and military use.

(3) Not later than 1 year after the date of enactment of this title, the Secretary of Defense and the Secretary of Transportation shall submit to the Congress a plan for making domestic military airports and airport facilities available for joint civil and military use to the maximum extent compatible with national defense requirements. The plan shall recommend public-sector civil sponsors in the case of each joint use proposed in the plan.

49 USC 2204.

SEC. 505. AIRPORT IMPROVEMENT PROGRAM.

Grants.

49 USC 1711, 1713.

49 USC 2104.

(a) AIRPORT DEVELOPMENT AND AIRPORT PLANNING.—In order to maintain a safe and efficient nationwide system of public-use airports to meet the present and future needs of civil aeronautics, the Secretary is authorized to make grants from the Trust Fund for airport development and airport planning by project grants in accordance with the provisions of this title. The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $450,000,000 for fiscal year 1982; $1,050,000,000 for the fiscal years ending before October 1, 1983; $1,843,500,000 for the fiscal years ending before October 1, 1984; $2,755,500,000 for the fiscal years ending before October 1, 1985; $3,772,500,000 for the fiscal years ending before October 1, 1986; and $4,789,700,000 for the fiscal years ending before October 1, 1987.

(b) Obligational Authority.—(1) The Secretary is authorized to incur obligations to make grants from funds made available under subsection (a) of this section, and such authority shall exist with respect to funds available for the making of grants for any fiscal year or part thereof pursuant to subsection (a) immediately after such funds are apportioned pursuant to section 507(a) of this title. No such obligation shall be incurred by the Secretary after September 30, 1987, except that nothing in this section shall preclude the obligation by grant agreement of apportioned funds which remain available pursuant to section 508(a) of this title after such date.

(2) No obligation shall be incurred by the Secretary for airport development at a privately owned public-use airport unless the Secretary receives appropriate assurances that such airport will continue to function as a public-use airport during the economic life (which in no case shall be less than ten years) of any facility at such airport that was developed with Federal financial assistance under this title.

(c) Noise Abatement Projects To Be Considered as Airport Development for Fiscal Year 1982.—For purposes of amounts apportioned for fiscal year 1982, airport development shall be considered to include any of the following activities, if undertaken by the sponsor, owner, or operator of a public-use airport:

(1) any acquisition or installation of the following items for improving noise compatibility at a public-use airport:

(A) noise suppressing equipment, physical barriers, or landscaping, for the purpose of diminishing the effect of aircraft noise on any area adjacent to such airport; and

(B) land, including land associated with future airport development, or any interest therein, or any easement through or other interest in airspace, necessary to insure that such land is used only for purposes which are compatible with the noise levels attributable to the operation of such airport; and

(2) any project to carry out an approved airport noise compatibility program, or part thereof, approved by the Secretary pursuant to section 104(b) of the Aviation Safety and Noise Abatement Act of 1979.

49 USC 2104.

49 USC 2205.

SEC. 506. AIRWAY IMPROVEMENT PROGRAM.

Appropriation authorization.

(a) Airway Facilities and Equipment.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1348(b)), there is authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $261,000,000 for fiscal year 1982; $986,000,000 for the fiscal years ending before October 1, 1983; $2,379,000,000 for the fiscal years ending before October 1, 1984; $3,786,000,000 for the fiscal years ending before October 1, 1985; $5,163,000,000 for the fiscal years ending before October 1, 1986; and $6,327,000,000 for the fiscal years ending before October 1, 1987. Amounts appropriated under the authorizations in this subsection shall remain available until expended.

(2) The costs of site preparation work associated with acquisition, establishment, or improvement of air navigation facilities by the Secretary pursuant to section 307(b) of the Federal Aviation Act of 1958 shall be charged to appropriated funds available to the Secretary for that purpose pursuant to paragraph (1) of this subsection.

49 USC 1348.

Nothing in this title shall preclude the Secretary from providing, in a grant agreement or other agreement with an airport owner or sponsor, for the performance of such site preparation work in connection with airport development, subject to payment or reimbursement for such site preparation work by the Secretary from such appropriated funds.

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—The Secretary is authorized to carry out under section 312 (49 U.S.C. 1353) of the Federal Aviation Act of 1958 such demonstration projects as the Secretary determines necessary in connection with research and development activities under section 312. For research, engineering and development, and demonstration projects and activities under section 312, there is authorized to be appropriated from the Trust Fund $72,000,000 for fiscal year 1982; $134,000,000 for fiscal year 1983 (of which not more than $16,800,000 is authorized to be appropriated for facilities, engineering and development); $286,000,000 for fiscal year 1984 (of which not more than $24,700,000 is authorized to be appropriated for facilities, engineering and development); $269,000,000 for fiscal year 1985 (of which not more than $23,100,000 is authorized to be appropriated for facilities, engineering and development); $215,000,000 for fiscal year 1986 (of which not more than $22,700,000 is authorized to be appropriated for facilities, engineering and development); and $193,000,000 for fiscal year 1987 (of which not more than $22,000,000 is authorized to be appropriated for facilities, engineering and development). Amounts appropriated under the authorizations in this subsection shall remain available until expended.

Appropriation authorization.

(c) OTHER EXPENSES.—(1) The balance of the moneys available in the Trust Fund may be appropriated for (A) costs of services provided under international agreements relating to the joint financing of air navigation services which are assessed against the United States Government, and (B) direct costs incurred by the Secretary to flight check, operate, and maintain air navigation facilities referred to in subsection (a) of this section in a safe and efficient manner.

(2) The amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for fiscal year 1982 may not exceed $800,000,000, and for any fiscal year beginning after September 30, 1982, and ending before October 1, 1987, may not exceed the amount made available for purposes of section 505 for that fiscal year multiplied by a factor equal to 2.44 in the case of fiscal year 1983; 1.57 in the case of fiscal year 1984; 1.39 in the case of fiscal year 1985; 1.28 in the case of fiscal year 1986; and 1.34 in the case of fiscal year 1987. The amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be reduced by an amount equal to two times the excess, if any, of (A) the portion of the amount authorized to be appropriated under subsection (a) of this section for such fiscal year which was not authorized to be appropriated for any previous fiscal year, over (B) the amount appropriated under such subsection for such fiscal year.

(d) WEATHER SERVICES.—The Secretary is authorized to reimburse the National Oceanic and Atmospheric Administration from the funds authorized in subsection (c) for fiscal years beginning after September 30, 1982, for the cost of providing the Federal Aviation Administration with weather reporting services. Expenditures for the purposes of carrying out this subsection shall be limited to $26,700,000 for fiscal year 1983; $28,569,000 for fiscal year 1984;

$30,569,000 for fiscal year 1985; $32,709,000 for fiscal year 1986; and $34,998,000 for fiscal year 1987.

(e) PRESERVATION OF FUNDS AND PRIORITY FOR AIRPORT AND AIRWAY PROGRAMS.—(1) Notwithstanding any other provision of law to the contrary, no amounts may be appropriated from the Trust Fund to carry out any program or activity under the Federal Aviation Act of 1958, except programs or activities referred to in this section.

49 USC 1301 note.

(2) Amounts equal to the amounts authorized for each fiscal year by section 505 of this title and subsections (a), (b), and (d) and the third sentence of section (c) of this section shall remain available in the Trust Fund until appropriated for the purposes described in such subsections.

(3) No amounts in the Trust Fund may be appropriated for any fiscal year to carry out administrative expenses of the Department of Transportation or of any unit thereof except to the extent authorized by subsection (c) of this section.

(4) No provision of law, except for a statute enacted after the date of enactment of this title which expressly limits the application of this paragraph, shall impair the authority of the Secretary to obligate to an airport by grant agreement in any fiscal year the unobligated balance of amounts which were apportioned in prior fiscal years and which remain available for approved airport development projects pursuant to section 508(a) of this title, in addition to the amounts authorized for that fiscal year by section 505.

(5) No provision of law shall be construed as authorizing the Secretary to obligate or expend any amounts appropriated from the Trust Fund for the purposes described in subsection (c) in any fiscal year after September 30, 1987, unless the provision expressly amends the provisions of and the formulas in subsection (c) of this section.

(f) TRANSMITTAL OF BUDGET ESTIMATES.—Whenever the Administrator of the Federal Aviation Administration submits or transmits any budget estimate, budget request, supplemental budget estimate, or other budget information, legislative recommendation, or comment on legislation to the Secretary, the President of the United States, or to the Office of Management and Budget pertaining to funds authorized in subsection (a) or (b) of this section, it shall concurrently transmit a copy thereof to the Speaker of the House of Representatives, the Committees on Public Works and Transportation and Appropriations of the House of Representatives, the President of the Senate, and the Committees on Commerce, Science, and Transportation and Appropriations of the Senate.

SEC. 507. APPORTIONMENT OF FUNDS.

49 USC 2206.

(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for that year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

(1) PRIMARY AIRPORTS.—

(A) To the sponsor of each primary airport, as follows:

(i) $6 for each of the first fifty thousand passengers enplaned at that airport;

(ii) $4 for each of the next fifty thousand passengers enplaned at that airport;

(iii) $2 for each of the next four hundred thousand passengers enplaned at that airport; and

(iv) $0.50 for each additional passenger enplaned at that airport.

(B) In each of the fiscal years 1984 through 1987, the Secretary shall apportion an amount to the sponsor of each primary airport in addition to whatever amount is apportioned to such airport under the formula set forth in subparagraph (A). The additional apportionment shall be calculated by determining the amount such airport is to be apportioned under the formula in subparagraph (A) and then increasing that amount by 10 percent for fiscal year 1984, 20 percent for fiscal year 1985, 25 percent for fiscal year 1986, and 30 percent for fiscal year 1987.

(C) The Secretary shall not apportion less than $200,000 nor more than $12,500,000 under this paragraph to an airport sponsor for any primary airport for any fiscal year.

(D) In no event shall the total amount of all apportionments under this paragraph for any fiscal year exceed 50 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(E) If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under this paragraph for such fiscal year shall not exceed 50 percent of such limited or reduced amount. In any case in which an apportionment would be reduced by the preceding sentence, the Secretary shall for such fiscal year reduce the apportionment to each sponsor of a primary airport under this paragraph proportionately so that such 50 percent amount is achieved.

(2) APPORTIONMENTS TO STATES.—To the States, there shall be apportioned for each of the fiscal years beginning after September 30, 1981, and ending before October 1, 1987, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

(A) INSULAR AREAS.—For airports other than primary airports, one percent of such amounts to Guam, American Samoa, the Government of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

(B) STATES.—For airports other than primary airports and other than airports described in section 508(d)(3), one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the population of each such State bears to the total population of all such States and one-half of the remaining 99 per centum to the States (other than those to which subparagraph (A) of this paragraph applies) in the proportion which the area of each such State bears to the total area of all such States. As used in this paragraph, the term "population" means the population according to the latest decennial census of the United States and the term "area" includes both land and water.

(3) DISCRETIONARY FUND.—Any amounts not apportioned under paragraphs (1), (2), and (4) of this subsection shall constitute a discretionary fund to be distributed at the discretion of the Secretary (subject to the limitations set forth in section 508(d) of this title) for such grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

(4) Notwithstanding any other provision of this subsection, for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970. In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act. In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under paragraph (1) of this subsection. In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year. Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established in paragraph (3) of this subsection.

49 USC 1715.

(b) PASSENGERS ENPLANED.—For purposes of determining apportionments for any fiscal year under paragraph (1) of subsection (a) of this section, the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

SEC. 508. USE OF APPORTIONED AND DISCRETIONARY FUNDS; MISCELLANEOUS CONDITIONS.

49 USC 2207.

(a) DURATION OF AVAILABILITY OF APPORTIONED AMOUNTS.—Each amount apportioned under paragraph (1), (2), or (4) of section 507(a) of this title shall be available for obligation under such apportionment during the fiscal year for which it was first authorized to be obligated and the two fiscal years immediately following. Any amount so apportioned which has not been obligated within such time shall be added to the discretionary fund established by section 507(a)(3) of this title.

(b) TRANSFER OF CERTAIN APPORTIONMENTS OF PRIMARY AIRPORTS.—(1) Funds apportioned to a sponsor under section 507(a)(1) of this title may be used for any of the purposes for which funds are made available under section 505 at any public-use airport of such sponsor which is in the national plan of integrated airport systems.

(2) A sponsor may enter into an agreement with the Secretary whereby the sponsor waives receipt of all or part of the funds apportioned to it under such section on the condition that the Secretary make the waived amount available for any of the purposes

for which funds are made available under section 505 to the sponsor of another public-use airport which is a part of the same State or geographical area as the airport of the sponsor making the waiver.

(c) STATES.—Funds apportioned to a State under section 507(a)(2) shall be available for any of the purposes for which funds are made available under section 505 to airports described in section 507(a)(2) which are located in such State. Each sponsor of such an airport may apply to the Secretary for grants from funds apportioned to such State.

(d) GENERAL LIMITATIONS.—(1) Not less than 10 percent of the funds made available under section 505 for any fiscal year shall be distributed to reliever airports during such fiscal year.

(2) Not less than 8 percent of the funds made available under section 505 for any fiscal year shall be obligated during such fiscal year (A) for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act, and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title.

49 USC 1711, 1713.

49 USC 2104.

(3) Not less than 5.5 percent of the funds made available under section 505 for any fiscal year shall be distributed during such fiscal year to—

(A) commercial service airports which are not primary airports,

(B) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(I) of such Act applied during fiscal year 1981, and

49 USC 1715.

(C) public airports (other than commercial service airports) which were eligible for Federal assistance from funds apportioned under section 15(a)(3) of the Airport and Airway Development Act of 1970, and to which section 15(a)(3)(A)(II) of such Act applied during fiscal year 1981.

No amounts obligated from the funds apportioned under paragraph (4) of section 507(a) shall be counted as part of the 5.5 percent required to be distributed under this paragraph for each fiscal year.

(4) Not less than one percent of the funds made available under section 505 for any fiscal year shall be distributed to planning agencies for the purpose of integrated airport system planning during such fiscal year.

(5) If the Secretary determines that he will not be able to distribute the amount of funds required to be distributed under paragraph (1), (2), (3), or (4) of this subsection for any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such amount, the portion of such amount the Secretary determines will not be distributed shall be available for obligation during such fiscal year for other airports and for other purposes authorized by section 505 of this title.

49 USC 2208.

SEC. 509. SUBMISSION AND APPROVAL OF PROJECT GRANT APPLICATIONS.

(a) SUBMISSION.—(1) Subject to the provisions of this subsection, (A) any public agency, or two or more public agencies acting jointly, or (B) any sponsor of a public-use airport, or two or more such sponsors acting jointly, may submit to the Secretary a project grant application for one or more projects, in a form and containing such information as the Secretary may prescribe, setting forth the project proposed to be undertaken. No project grant application shall propose airport development or airport planning except in connection with public-use airports included in the current national plan of integrated airport systems prepared pursuant to section 504 of this title. Nothing in this subsection shall authorize the submission of a project grant application by any public agency which is subject to the law of any State if the submission of such application by the public agency is prohibited by the law of that State. All proposed airport development shall be in accordance with standards established or approved by the Secretary, including, but not limited to, standards for site location, airport layout, site preparation, paving, lighting, and safety of approaches.

(2) Notwithstanding any provision of this title, the sponsor of any airport may submit a project-grant application for airport development (including noise compatibility projects) to the Secretary within 180 days after the date of enactment of this title, and the Secretary may incur obligations to fund such projects, in accordance with the provisions of this title, from funds available for obligation pursuant to section 507(a), if—

(A) a project-grant application or preapplication for such project was submitted to the Secretary before September 30, 1980; or

(B) the project was carried out after September 30, 1980, and before the date of enactment of this title.

(b) Approval.—(1) No project grant application may be approved by the Secretary unless the Secretary is satisfied that—

(A) the project is reasonably consistent with plans (existing at the time of approval of the project) of public agencies authorized by the State in which such airport is located to plan for the development of the area surrounding the airport and will contribute to the accomplishment of the purposes of this title;

(B) sufficient funds are available for that portion of the project costs which are not to be paid by the United States under this title;

(C) the project will be completed without undue delay;

(D) the sponsor which submitted the project grant application has legal authority to engage in the project as proposed; and

(E) all project sponsorship requirements prescribed by or under the authority of this title have been or will be met.

(2) No project grant application for airport development may be approved by the Secretary unless the sponsor, a public agency, or the United States or an agency thereof holds good title, satisfactory to the Secretary, to the landing area of the airport or site therefor, or gives assurance satisfactory to the Secretary that good title will be acquired.

(3) No project grant application for airport development may be approved by the Secretary which does not include provision for (A) land required for the installation of approach light systems; (B) touchdown zone and centerline runway lighting; or (C) high intensity runway lighting, when it is determined by the Secretary that any such item is required for the safe and efficient use of the airport by aircraft, taking into account the type and volume of traffic utilizing the airport.

(4) No project grant application for airport development may be approved unless the Secretary is satisfied that fair consideration has

been given to the interest of communities in or near which the project may be located.

(5) It is declared to be national policy that airport development projects authorized pursuant to this title shall provide for the protection and enhancement of the natural resources and the quality of the environment of the Nation. In implementing this policy, the Secretary shall consult with the Secretary of the Interior and the Administrator of the Environmental Protection Agency with regard to any project included in a project grant application involving airport location, a major runway extension, or runway location which may have a significant impact on natural resources including, but not limited to, fish and wildlife, natural, scenic, and recreation assets, water and air quality, and other factors affecting the environment, and shall authorize no such project found to have significant adverse effect unless the Secretary shall render a finding, in writing, following a full and complete review, which shall be a matter of public record, that no feasible and prudent alternative exists and that all reasonable steps have been taken to minimize such adverse effect.

(6)(A) No project grant application for airport development involving the location of an airport, an airport runway, or a major runway extension may be approved by the Secretary unless the sponsor of the project certifies to the Secretary that there has been afforded the opportunity for public hearings for the purpose of considering the economic, social, and environmental effects of the airport or runway location and its consistency with the goals and objectives of such planning as has been carried out by the community.

(B) When hearings are held under subparagraph (A) of this paragraph, the project sponsor shall, when requested by the Secretary, submit a copy of the transcript to the Secretary.

(7)(A) No project grant application for a project involving airport location, a major runway extension, or runway location may be approved unless the Governor of the State in which such project is to be located certifies in writing to the Secretary that there is reasonable assurance that the project will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards. In any case where such standards have not been approved and where applicable air and water quality standards have been promulgated by the Administrator of the Environmental Protection Agency, certification shall be obtained from such Administrator. Notice of certification or refusal to certify shall be provided within sixty days after the project application has been received by the Secretary.

(B) The Secretary shall condition approval of any such project grant application on compliance during construction and operation with applicable air and water quality standards.

(8) Notwithstanding any other provision of law, the Secretary may approve an application for an airport development project (other than an airport development project to which paragraph (7)(A) applies) at an existing airport without requiring the preparation of an environmental impact statement with respect to noise for such project if—

(A) completion of the project would allow existing aircraft operations at the airport that involve aircraft that do not comply with the noise standards prescribed for "stage 2" aircraft in section 36.1 of title 14, Code of Federal Regulations, to be replaced by aircraft operations involving aircraft that do comply with such standards; and

(B) the project complies with all other statutory and administrative requirements imposed under this title.

(9) In establishing priorities for the distribution of funds available pursuant to section 507 of this title, the Secretary may give priority to approval of projects that are consistent with integrated airport system plans.

(c) State Standards.—The Secretary is authorized to approve standards, other than standards for safety of approaches, established by a State for airport development at public-use airports in such State which are not primary airports, and, upon such approval, such State standards shall be the standards applicable to such airports in lieu of any comparable standard established under subsection (a) of this section. State standards approved under this subsection may be revised from time to time, as the State or the Secretary determines necessary, subject to approval of such revisions by the Secretary.

(d) Acceptance of Certification.—The Secretary is authorized in connection with any project to require a certification from a sponsor that such sponsor will comply with all of the statutory and administrative requirements imposed on such sponsor under this title in connection with such project. Acceptance by the Secretary of a certification from a sponsor may be rescinded by the Secretary at any time. Nothing in this subsection shall affect or discharge any responsibility or obligation of the Secretary under any other Federal law, including, but not limited to, the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), section 4(f) of the Department of Transportation Act (49 U.S.C. 1652), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000b), title VIII of the Act of April 11, 1968 (42 U.S.C. 3601 et seq.), and the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601 et seq.).

49 USC 1653.
42 USC 2000d.

(e) Requirement of Notice.—Each sponsor to which funds are apportioned under section 507(a)(1) of this title shall notify the Secretary, by such time and in a form containing such information as the Secretary may prescribe, of the fiscal year in which it intends to apply, by project grant application, for such funds. If a sponsor does not provide such notification, the Secretary may defer approval of any application for such funds until the fiscal year immediately following the fiscal year in which such application is submitted.

SEC. 510. UNITED STATES SHARE OF PROJECT COSTS.

49 USC 2209.

(a) General Provision.—Except as otherwise provided in this title, the United States share of allowable project costs payable on account of any project contained in an approved project grant application submitted in accordance with this title shall be 90 percent of the allowable project costs.

(b) Projects at Certain Primary Airports.—In the case of primary airports enplaning 0.25 percent or more of the total number of passengers enplaned annually at all commercial service airports, the United States share of allowable project costs payable on account of any project contained in an approved project grant application shall be 75 per centum of the allowable project costs.

(c) Projects in Public Land States.—In the case of any State containing unappropriated and unreserved public lands and nontaxable Indian lands (individual and tribal) exceeding 5 percent of the total area of all lands therein, the United States share under subsection (a) or (b) shall be increased by whichever is the smaller of the following percentages thereof: (1) 25 percent, or (2) a percentage equal to one-half of the percentage that the area of all such lands in that State is of its total area. In no event shall such United States share, as increased by this subsection, exceed the greater of (A) the percentage share determined under subsection (a) or (b) of this section, or (B) the percentage share applying on June 30, 1975, as determined under subsection 17(b) of the Airport and Airway Development Act of 1970. 49 USC 1717.

49 USC 2210.

SEC. 511. PROJECT SPONSORSHIP.

(a) SPONSORSHIP.—As a condition precedent to approval of an airport development project contained in a project grant application submitted under this title, the Secretary shall receive assurances, in writing, satisfactory to the Secretary, that—

(1) the airport to which the project relates will be available for public use on fair and reasonable terms and without unjust discrimination, including the requirement that (A) each air carrier using such airport (whether as a tenant, nontenant, or subtenant of another air carrier tenant) shall be subject to such nondiscriminatory and substantially comparable rates, fees, rentals, and other charges and such nondiscriminatory and substantially comparable rules, regulations, and conditions as are applicable to all such air carriers which make similar use of such airport and which utilize similar facilities, subject to reasonable classifications such as tenants or nontenants, and combined passenger and cargo flights or all cargo flights, and such classification or status as tenant shall not be unreasonably withheld by any airport provided an air carrier assumes obligations substantially similar to those already imposed on tenant air carriers, and (B) each fixed-based operator at any airport shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other fixed-based operators making the same or similar uses of such airport utilizing the same or similar facilities, and (C) each air carrier using such airport shall have the right to service itself or to use any fixed-base operator that is authorized by the airport or permitted by the airport to serve any air carrier at such airport;

(2) there will be no exclusive right for the use of the airport by any person providing, or intending to provide, aeronautical services to the public. For purposes of this paragraph, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport;

(3) the airport and all facilities thereon or connected therewith will be suitably operated and maintained, with due regard to climatic and flood conditions;

(4) the aerial approaches to the airport will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards

and by preventing the establishment or creation of future airport hazards;

(5) appropriate action, including the adoption of zoning laws has been or will be taken, to the extent reasonable, to restrict the use of land adjacent to or in the immediate vicinity of the airport to activities and purposes compatible with normal airport operations, including landing and takeoff of aircraft;

(6) all of the facilities of the airport developed with Federal financial assistance and all those usable for landing and takeoff of aircraft will be available to the United States for use by Government aircraft in common with other aircraft at all times without charge, except, if the use by Government aircraft is substantial, charge may be made for a reasonable share, proportional to such use, of the cost of operating and maintaining the facilities used;

(7) the airport operator or owner will furnish without cost to the Federal Government for use in connection with any air traffic control or navigation activities, or weather-reporting and communication activities related to air traffic control, any areas of land or water, or estate therein, or rights in buildings of the sponsor as the Secretary considers necessary or desirable for construction at Federal expense of space or facilities for such purposes;

(8) all project accounts and records will be kept in accordance with a standard system of accounting prescribed by the Secretary after consultation with appropriate public agencies;

(9) the airport operator or owner will maintain a fee and rental structure for the facilities and services being provided the airport users which will make the airport as self-sustaining as possible under the circumstances existing at that particular airport, taking into account such factors as the volume of traffic and economy of collection, except that no part of the Federal share of an airport development or airport planning project for which a grant is made under this title or under the Federal Airport Act or the Airport and Airway Development Act of 1970 shall be included in the rate base in establishing fees, rates, and charges for users of that airport;

49 USC 1101 note, 1701 note.

(10) the airport operator or owner will submit to the Secretary such annual or special airport financial and operations reports as the Secretary may reasonably request;

(11) the airport and all airport records will be available for inspection by any duly authorized agent of the Secretary upon reasonable request;

(12) all revenues generated by the airport, if it is a public airport, will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly related to the actual transportation of passengers or property: *Provided, however,* That if covenants or assurances in debt obligations previously issued by the owner or operator of the airport, or provisions in governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport shall not apply; and

(13) the airport operator or owner who receives a grant for the purchase of land for noise compatibility purposes which is conditioned on the disposal of the acquired land at the earliest practicable time will, subject to the retention or reservation of any interest or right therein necessary to insure that such land is used only for purposes which are compatible with the noise levels of the operation of the airport, use its best efforts to so dispose of such land. The proceeds of such dispositions shall be (A) refunded to the United States for the Trust Fund on a basis proportionate to the United States share of the cost of acquisition of such land, or (B) reinvested in an approved project, pursuant to such regulations as the Secretary shall prescribe.

(b) Compliance.—To insure compliance with this section, the Secretary shall prescribe such project sponsorship requirements, consistent with the terms of this title, as the Secretary considers necessary. Among other steps to insure such compliance, the Secretary is authorized to enter into contracts with public agencies on behalf of the United States. Whenever the Secretary obtains from a sponsor any area of land or water, or estate therein, or rights in buildings of the sponsor and constructs space or facilities thereon at Federal expense, the Secretary is authorized to relieve the sponsor from any contractual obligation entered into under this title, the Airport and Airway Development Act of 1970, or the Federal Airport Act to provide free space in airport buildings to the Federal Government to the extent the Secretary finds that space no longer required for the purposes set forth in paragraph (7) of subsection (a) of this section.

49 USC 1101 note, 1701 note

(c) Consultation.—In making a decision to undertake any airport development project under this title, each sponsor of an airport shall undertake reasonable consultations with affected parties using the airport at which such project is proposed.

49 USC 2211.

SEC. 512. GRANT AGREEMENTS.

(a) Offer and Acceptance.—Upon approving a project grant application, the Secretary, on behalf of the United States, shall transmit to the sponsor or sponsors of the application an offer to make a grant for the United States share of allowable project costs. An offer shall be made upon such terms and conditions as the Secretary considers necessary to meet the requirements of this title and any regulations prescribed thereunder. Each offer shall state a definite amount as the maximum obligation of the United States payable from funds authorized by this title, and shall stipulate the obligations to be assumed by the sponsor or sponsors. In any case where the Secretary approves a project grant application for a project which will not be completed in one fiscal year, the offer shall, upon request of the sponsor, provide for the obligation of funds apportioned or to be apportioned to the sponsor pursuant to section 507(a)(1) of this title for such fiscal years (including future fiscal years) as may be necessary to pay the United States share of the cost of such project. If and when an offer is accepted in writing by the sponsor, the offer and acceptance shall comprise an agreement constituting an obligation of the United States and of the sponsor. Unless and until an agreement has been executed, the United States may not pay, nor be obligated to pay, any portion of the costs which have been or may be incurred.

(b) Maximum Obligation of the United States.—When an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased, except that—

(1) in the case of any project for airport development (other than a project for land acquisition), the maximum obligation of the United States may be increased by not more than 10 percent; and

(2) in the case of any acquisition of land or interests in land, the maximum obligation of the United States may be increased by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to such acquisition in land or interests therein, based upon current credible appraisals.

(c) Notwithstanding any other provision of law, in the case of grants made under the Airport and Airway Development Act of 1970 the maximum obligation of the United States may be increased by not more than 10 percent, and any such increase may be paid for only from funds recovered by the United States from other grants made under that Act.

49 USC 1701 note.

SEC. 513. PROJECT COSTS.

49 USC 2212.

(a) ALLOWABLE PROJECT COSTS.—Except as provided in section 514 of this title, the United States may not pay, or be obligated to pay, from amounts appropriated to carry out the provisions of this title, any portion of a project cost incurred in carrying out a project for airport development or airport planning unless the Secretary has first determined that the cost is allowable. A project cost is allowable if—

(1) it was a necessary cost incurred in accomplishing an approved project in conformity with the terms and conditions of the grant agreement entered into in connection with the project, including any costs incurred by a recipient in connection with any audit required by the Secretary pursuant to section 518(b) of this title;

(2) it was incurred subsequent to the execution of the grant agreement with respect to the project, and in connection with airport development or airport planning accomplished under the project after the execution of the agreement. However, the allowable costs of a project for airport development may include any necessary costs of formulating the project (including the costs of field surveys and the preparation of plans and specifications, the acquisition of land or interests therein or easements through or other interests in airspace, and any necessary administrative or other incidental costs incurred by the sponsor specifically in connection with the accomplishment of the project for airport development, which would not have been incurred otherwise) which were incurred prior to the execution of the grant agreement and subsequent to May 13, 1946, and the allowable costs of a project for airport planning may include any necessary and direct costs associated with developing the project work scope which were incurred subsequent to May 13, 1946;

(3) in the opinion of the Secretary it is reasonable in amount, and if the Secretary determines that a project cost is unreasonable in amount, the Secretary may allow as an allowable project cost only so much of such project cost as the Secretary determines to be reasonable, except that in no event may the Secretary allow project costs in excess of the definite amount stated

in the grant agreement except to the extent authorized by section 512(b); and

(4) it has not been incurred in any project for airport planning or airport development for which Federal assistance has been granted.

The Secretary is authorized to prescribe such regulations, including regulations with respect to the auditing of project costs, as the Secretary considers necessary to accomplish the purposes of this section.

(b) TERMINAL DEVELOPMENT.—(1) Notwithstanding any other provision of this title, upon certification by the sponsor of any commercial service airport that such airport has, on the date of submittal of the project grant application, all the safety equipment required for certification of such airport under section 612 of the Federal Aviation Act of 1958 and all the security equipment required by rule or regulation, and has provided for access to the passenger enplaning and deplaning area of such airport to passengers enplaning or deplaning from aircraft other than air carrier aircraft, the Secretary may approve, as allowable project costs of a project for airport development at such airport, terminal development (including multimodal terminal development) in nonrevenue-producing public-use areas if such project cost is directly related to the movement of passengers and baggage in air commerce within the boundaries of the airport, including, but not limited to, vehicles for the movement of passengers between terminal facilities or between terminal facilities and aircraft.

49 USC 1432.

(2) Not more than the greater of (A) $200,000, or (B) 60 percent of the sums apportioned under section 507(a)(1) of this title to the sponsor of a primary airport for any fiscal year may be obligated for project costs allowable under paragraph (1) of this subsection. Not more than $200,000 of the sums to be distributed at the discretion of the Secretary under section 507(a)(3) for any fiscal year may be used by the sponsor of a commercial service airport which is not a primary airport for project costs allowable under paragraph (1) of this subsection.

(3) Not more than $25,000,000 may be obligated for project costs allowable under paragraph (1) of this subsection in any fiscal year at commercial service airports which were not eligible for assistance for terminal development during the fiscal year ending September 30, 1980, under section 20(b) of the Airport and Airway Development Act of 1970.

49 USC 1720.

(4) Sums apportioned under section 507(a) and made available to the sponsor of an air carrier airport (within the meaning of section 11(1) of the Airport and Airway Development Act of 1970, as in effect immediately before the date of enactment of this paragraph) at which terminal development was carried out on or after July 1, 1970, and before July 12, 1976, shall be available, subject to the limitations contained in paragraph (2) of this subsection, for the immediate retirement of the principal of bonds or other evidences of indebtedness the proceeds of which were used for that part of the terminal development at such airport the cost of which would be allowable under paragraph (1) of this subsection if incurred after the effective date of this paragraph, subject to the following conditions:

49 USC 1711.

(A) That such sponsor submit the certification required under paragraph (1) of this subsection.

(B) That the Secretary determine that no project for airport development at such airport outside the terminal area will be deferred if such sums are used for such retirement.

(C) That no funds available for airport development under this title will be obligated for any project for additional terminal development at such airport for a period of three years beginning on the date any such sums are used for such retirement.

(5) Notwithstanding any other provisions of this title, the United States share of project costs allowable under paragraph (1) of this subsection shall not exceed 50 percent.

(6) The Secretary shall approve project costs allowable under paragraph (1) of this subsection under such terms and conditions as may be necessary to protect the interests of the United States.

(c) COSTS NOT ALLOWED.—Except as provided in subsection (b) of this section, the following are not allowable project costs: (1) the cost of construction of that part of an airport development project intended for use as a public parking facility for passenger automobiles; or (2) the cost of construction, alteration, or repair of a hangar or of any part of an airport building except such of those buildings or parts of buildings intended to house facilities or activities directly related to the safety of persons at the airport.

SEC. 514. PAYMENTS UNDER GRANT AGREEMENTS.

49 USC 2213.

The Secretary, after consultation with the sponsor with which a project grant agreement has been entered into, may determine the times and amounts in which payments shall be made under the terms of such agreement. Payments in an aggregate amount not to exceed 90 percent of the United States share of the total estimated allowable project costs may be made from time to time in advance of accomplishment of the airport project to which the payments relate, if the sponsor certifies to the Secretary that the aggregate expenditures to be made from the advance payments will not at any time exceed the cost of the airport development work which has been performed up to that time. If the Secretary determines that the aggregate amount of payments made under a project grant agreement at any time exceeds the United States share of the total allowable project costs, the United States shall be entitled to recover the excess. If the Secretary finds that any airport development to which the advance payments relate has not been accomplished within a reasonable time or the project is not completed, the United States may recover any part of the advance payment for which the United States received no benefit. Payments under a project grant agreement shall be made to the official or depository authorized by law to receive public funds and designated by the sponsor.

SEC. 515. PERFORMANCE OF CONSTRUCTION WORK.

49 USC 2214.

(a) REGULATIONS.—The construction work on any project for airport development contained in an approved project grant application submitted in accordance with this title shall be subject to inspection and approval by the Secretary and shall be in accordance with regulations prescribed by the Secretary. Such regulations shall require such cost and progress reporting by the sponsor or sponsors of such project as the Secretary shall deem necessary. No such regulation shall have the effect of altering any contract in connection with any project entered into without actual notice of the regulation.

(b) MINIMUM RATES OF WAGES.—All contracts in excess of $2,000 for work on projects for airport development approved under this title which involve labor shall contain provisions establishing minimum rates of wages, to be predetermined by the Secretary of Labor, in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a—276a-5), which contractors shall pay to skilled and unskilled labor, and such minimum rates shall be stated in the invitation for bids and shall be included in proposals or bids for the work.

(c) VETERANS PREFERENCE.—All contracts for work under project grants for airport development approved under this title which involve labor shall contain such provisions as are necessary to insure that, in the employment of labor (except in executive, administrative, and supervisory positions), preference shall be given to veterans of the Vietnam era and disabled veterans. However, this preference shall apply only where the individuals are available and qualified to perform the work to which the employment relates. For the purposes of this subsection—

(1) a Vietnam-era veteran is an individual who served on active duty as defined by section 101(21) of title 38 of the United States Code in the Armed Forces for a period of more than 180 consecutive days any part of which occurred during the period beginning August 5, 1964, and ending May 7, 1975, and who was separated from the Armed Forces under honorable conditions; and

(2) a disabled veteran is an individual described in section 2108(2) of title 5 of the United States Code.

49 USC 2215.

SEC. 516. USE OF GOVERNMENT-OWNED LANDS.

(a) REQUESTS FOR USE.—Subject to the provisions of subsection (c) of this section, whenever the Secretary determines that use of any lands owned or controlled by the United States is reasonably necessary for carrying out a project under this title at a public airport, or for the operation of any public airport, including lands reasonably necessary to meet future development of an airport in accordance with the national plan of integrated airport systems, the Secretary shall file with the head of the department or agency having control of the lands a request that the necessary property interests therein be conveyed to the public agency sponsoring the project in question or owning or controlling the airport. The property interest may consist of the title to, or any other interest in, land or any easement through or other interest in airspace.

(b) MAKING OF CONVEYANCES.—Upon receipt of a request from the Secretary under this section, the head of the department or agency having control of the lands in question shall determine whether the requested conveyance is inconsistent with the needs of the department or agency, and shall notify the Secretary of the determination within a period of four months after receipt of the Secretary's request. If the department or agency head determines that the requested conveyance is not inconsistent with the needs of that department or agency, the department or agency head is hereby authorized and directed, with the approval of the Attorney General of the United States, and without any expense to the United States, to perform any acts and to execute any instruments necessary to make the conveyance requested. A conveyance may be made only on the condition that, at the option of the Secretary, the property interest conveyed shall revert to the United States in the event that the lands in question are not developed for airport purposes or used in a manner consistent with the terms of the conveyance. If only a part of the property interest conveyed is not developed for airport purposes, or used in a manner consistent with the terms of the conveyance, only that particular part shall, at the option of the Secretary, revert to the United States.

(c) EXEMPTION OF CERTAIN LANDS.—Unless otherwise specifically provided by law, the provisions of subsections (a) and (b) of this section shall not apply with respect to lands owned or controlled by the United States within any national park, national monument, national recreation area, or similar area under the administration of the National Park Service; within any unit of the National Wildlife Refuge System or similar area under the jurisdiction of the United States Fish and Wildlife Service; or within any national forest or Indian reservation.

SEC. 517. FALSE STATEMENTS.

49 USC 2216.

Any officer, agent, or employee of the United States, or any officer, agent, or employee of any public agency, or any person, association, firm, or corporation who, with intent to defraud the United States—

(1) knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the costs thereof, in connection with the submission of plans, maps, specifications, contracts, or estimates of project costs for any project submitted to the Secretary for approval under this title;

(2) knowingly makes any false statement, false representation, or false report or claim for work or materials for any project approved by the Secretary under this title; or

(3) knowingly makes any false statement or false representation in any report or certification required to be made under this title;

shall, upon conviction thereof, be punished by imprisonment for not to exceed five years or by a fine of not to exceed $10,000, or by both.

SEC. 518. ACCESS TO RECORDS.

49 USC 2217.

(a) RECORDKEEPING REQUIREMENTS.—Each recipient of a grant under this title shall keep such records as the Secretary may prescribe, including records which fully disclose the amount and the disposition by the recipient of the proceeds of the grant, the total cost of the plan or program in connection with which the grant is given or used, and the amount and nature of that portion of the cost of the plan or program supplied by other sources, and such other records as will facilitate an effective audit. The Secretary shall annually review the reporting and recordkeeping requirements under this title to insure that such requirements are kept to the minimum level necessary for the proper administration of this title.

(b) AUDIT AND EXAMINATION.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to grants received under this title. The Secretary may require, as a condition to receipt of a grant under this title, that an appropriate audit be conducted by a recipient.

(c) AUDIT REPORTS.—In any case in which an independent audit is made of the accounts of a recipient of a grant under this title relating to the disposition of the proceeds of such grant or relating to the plan or program in connection with which the grant was given or used, the recipient shall file a certified copy of such audit with the Comptroller General of the United States not later than six months following the close of the fiscal year for which the audit was made. On or before April 15 of each year the Comptroller General shall report to the Congress describing the results of each audit conducted or reviewed by him under this section during the preceding fiscal year. The Comptroller General shall prescribe such regulations as are deemed necessary to carry out the provisions of this subsection.

(d) WITHHOLDING INFORMATION.—Nothing in this section shall authorize the withholding of information by the Secretary or the Comptroller General of the United States, or any officer or employee under the control of either of them, from the duly authorized committees of the Congress.

49 USC 2218.

SEC. 519. GENERAL POWERS.

The Secretary is empowered to perform such acts, to conduct such investigations and public hearings, to issue and amend such orders, and to make and amend such regulations and procedures, pursuant to and consistent with the provisions of this title, as the Secretary considers necessary to carry out the provisions of, and to exercise and perform the Secretary's powers and duties, under this title.

49 USC 2219.

SEC. 520. CIVIL RIGHTS.

The Secretary shall take affirmative action to assure that no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from participating in any activity conducted with funds received from any grant made under this title. The Secretary shall promulgate such rules as the Secretary deems necessary to carry out the purposes of this section and may enforce this section, and any rules promulgated under this section, through agency and department provisions and rules which shall be similar to those established and in effect under title VI of the Civil Rights Act of 1964. The provisions of this section shall be considered to be in addition to and not in lieu of the provisions of title VI of the Civil Rights Act of 1964.

42 USC 2000d.

49 USC 2220.

SEC. 521. REPORTS TO CONGRESS.

On or before the first day of April of each year the Secretary shall make a report to the Congress describing his operations under this title during the preceding fiscal year. The report shall include a detailed statement of the airport development accomplished, the status of each project undertaken, the allocation of appropriations, and an itemized statement of expenditures and receipts.

49 USC 2221.

SEC. 522. REPORT ON ABILITY OF AIRPORTS TO FINANCE AIRPORT DEVELOPMENT NEEDS.

(a) SUBMISSION TO CONGRESS.—Not later than 1 year after the date of enactment of this title, the Secretary shall submit to the Congress a report on whether, and to what extent, those airports which have the ability to finance their capital and operating needs without Federal assistance should be made ineligible to receive Federal assistance for airport development and airport planning under this title.

(b) Considerations.—The study shall consider, among other things: (1) what effect, if any, making such airports ineligible for such Federal assistance would have on the national airport system; (2) whether airports which are made ineligible for assistance, or voluntarily withdraw from the program, should be permitted to collect a passenger facility charge; (3) how such a passenger facility charge could be collected in order to minimize any cost and inconvenience for passengers, airports, and air carriers; (4) the extent to which such a program would permit a reduction in Federal taxes on air transportation; (5) whether the net effect of such a program would lower or increase the cost of air transportation to passengers on our Nation's air carriers; and (6) whether the Congress should implement such a program prior to the expiration of this title.

(c) Consultation.—In conducting the study, the Secretary shall consult with airport operators, air carriers, and representatives of any other groups which may be substantially affected by such a program.

SEC. 523. REPEALS; EFFECTIVE DATE; SAVING PROVISIONS; AND SEPARABILITY.

(a) Repeal.—Sections 1 through 30 of the Airport and Airway Development Act of 1970 (49 U.S.C. 1701-1730) are repealed on the date of enactment of this title.

(b) Effective Date.—This title and the amendments made by this title shall take effect on the date of enactment of this title. 49 USC 2201 note.

(c) Saving Provisions.—(1) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, grants, rights, and privileges which have been issued, made, granted, or allowed to become effective by the President, the Secretary, or any court of competent jurisdiction or any provision of the Airport and Airway Development Act of 1970 or the Federal Airport Act which are in effect at the time this title takes effect, are continued in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Secretary or by any court of competent jurisdiction, or by operation of law.

49 USC 2201 note.

49 USC 1701 note, 1101 note.

(2) Notwithstanding any other provision of this title, amounts apportioned before October 1, 1981, pursuant to section 15(a)(3) of the Airport and Airway Development Act of 1970, which have not been obligated by grant agreement before that date, shall remain available for obligation, for the duration of time specified in section 15(a)(5) of that Act, in accordance with the provisions of that Act (other than the second sentence of section 14(b)(2)), to the same extent as though that Act had not been repealed.

49 USC 1715.

49 USC 1714.

(d) Separability.—If any provision of this title or the application thereof to any person or circumstance is held invalid, the remainder of the title and the application of the provision to other persons or circumstances is not affected thereby. 49 USC 2201 note.

SEC. 524. MISCELLANEOUS AMENDMENTS.

(a)(1) Section 308(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1349(a)) is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, the providing of services at an airport by a single fixed-based operator shall not be construed as an exclusive right if it would be unreasonably costly, burdensome, or impractical for more than one fixed-based operator to provide such services, and if allowing more than one fixed-based operator to provide such services would require the reduction of space leased pursuant to an existing agreement between such single fixed-based operator and such airport.".

(2) Section 313(c) of the Federal Aviation Act of 1958 (49 U.S.C. 1354(c)) is amended by inserting "the Airport and Airway Improvement Act of 1982," after "this Act," the first place it appears.

Ante, p. 671.

(3) Section 1109(e) of the Federal Aviation Act of 1958 (49 U.S.C. 1509(e)) is amended by striking out "Airport and Airway Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982".

(b) The Aviation Safety and Noise Abatement Act of 1979 is amended as follows:

49 USC 2101.

(1) Section 101(1) is amended to read as follows:

"(1) the term 'airport' means any public-use airport (as defined by section 503(17) of the Airport and Airway Improvement Act of 1982);".

(2) Section 101(2) is amended to read as follows:

"(2) the term 'airport operator' means, in the case of an airport serving air carriers certificated by the Civil Aeronautics Board, any person holding a valid certificate issued pursuant to section 612 of the Federal Aviation Act of 1958 (49 U.S.C. 1432) to operate an airport, and, in the case of any other airport, the person operating such airport; and".

49 USC 2103.

(3) Section 103(b) is amended to read as follows:

49 USC 1711, 1713.

"(b)(1) The Secretary is authorized to incur obligations to make grants from funds made available under section 505 of the Airport and Airway Improvement Act of 1982 for airport noise compatibility planning to sponsors of airports. The United States share of any airport noise compatibility planning grant under this section shall be that percent for which a project for airport development at that airport would be eligible under section 510 of the Airport and Airway Improvement Act of 1982.

"(2) For purposes of this Act, the term 'airport noise compatibility planning' means the development for planning purposes of information necessary to prepare and submit (A) the noise exposure map and related information pursuant to subsection (a) of this section, including any cost associated with obtaining such information, or (B) a noise compatibility program for submission pursuant to section 104 of this Act.".

49 USC 2104.

(4) Section 104(c)(1) is amended by striking out "subsection (e) of this section" in the first sentence and inserting in lieu thereof "section 505 of the Airport and Airway Improvement Act of 1982". The last sentence of section 104(c)(1) is amended to read as follows: "All of the provisions of the Airport and Airway Improvement Act of 1982 applicable to project grants made under section 505 of that Act (except section 510 of that Act relating to United States share of project costs) shall be applicable to any grant made under this Act, unless the Secretary determines that any provision of such Act of 1982 is inconsistent with, or unnecessary to carry out, the purposes of this Act.".

49 USC 2108.

49 USC 1713.

(5) Section 108 is amended by striking out "(1) airport noise compatibility planning carried out with grants made under section 13 of the Airport and Airway Development Act of 1970, and (2)" and inserting in lieu thereof "airport noise compatibility planning and".

(c) Section 13(g)(1) of the Surplus Property Act of 1944 (50 App. U.S.C. 1622(g)(1)) is amended by striking out "Airport and Airway

Development Act of 1970" and inserting in lieu thereof "Airport and Airway Improvement Act of 1982". *Ante*, p. 671.

(d) Section 24 of the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1356a) is amended by striking out subsection (c) and inserting in lieu thereof the following:

Appropriation authorization.

"(c)(1) There is authorized to be appropriated out of the Airport and Airway Trust Fund for amounts expended before the date specified in paragraph (2) of this subsection not to exceed $15,000,000. No such amounts shall be appropriated prior to September 30, 1981.

"(2) No compensation shall be paid by the Secretary of Transportation under this section for amounts expended after the date which is 180 days after the date of enactment of the International Air Transportation Competition Act of 1979.". 49 USC 1301 note.

49 USC 1731.

(e) Section 31 of the Airport and Airway Development Act of 1970 is amended by striking out "this title" and inserting in lieu thereof "the Airport and Airway Improvement Act of 1982", by inserting "under such Act" after "airport development project", and by inserting "(as defined by section 11(8) of the Airport and Airway Development Act of 1970, as in effect on the date of enactment of this section)" after "general aviation airport". *Ante*, p. 671. 49 USC 1711.

(f) The last sentence of section 612(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(b)) is amended by inserting "(1)" immediately after the words "relating to" and by inserting the following immediately before the period at the end thereof: "and (2) such grooving or other friction treatment for primary and secondary runways as the Secretary determines to be necessary".

SEC. 525. SAFETY CERTIFICATION OF AIRPORTS.

(a) Section 612(a) of the Federal Aviation Act of 1958 (49 U.S.C. 1432(a)) is amended to read as follows:

"POWER TO ISSUE

"SEC. 612. (a) The Administrator is empowered to issue airport operating certificates to, and establish minimum safety standards for the operation of, airports that serve any scheduled or unscheduled passenger operation of air carrier aircraft designed for more than 30 passenger seats.".

(b) Section 612(b) of such Act (49 U.S.C. 1432(b)) is amended by striking out "serving air carriers certificated by the Civil Aeronautics Board" in the first sentence and inserting in lieu thereof "which is described in subsection (a) and which is required by the Administrator, by rule, to be certificated".

(c) Section 612(c) of such Act (49 U.S.C. 1432(c)) is amended by striking out "air carrier airport enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all air carriers airports" and inserting in lieu thereof "airport described in subsection (a)(1) enplaning annually less than one-quarter of 1 percent of the total number of passengers enplaned at all airports described in subsection (a)(1)".

(d) Section 610(a)(8) of such Act (49 U.S.C. 1430(a)(8)) is amended to read as follows:

> "(8) For any person to operate an airport without an airport operating certificate required by the Administrator pursuant to section 612, or in violation of the terms of any such certificate; and".

49 USC 2222.

SEC. 526. CONTRACTING AUTHORITY.

In the powers granted under section 519 of this title, the Secretary, in entering into a contract or other agreement with any State or political subdivision thereof for the purpose of permitting such State or subdivision to operate any airport facility within such State or subdivision shall insure that such contract or agreement contain, among others, a provision relieving the United States of any and all liability for the payment of any claim or other obligation arising out of or in connection with acts or omissions of employees of such State or political subdivision in the operation of any such airport facility.

49 USC 2223.

SEC. 527. STUDY OF AIRPORT ACCESS.

(a) The Secretary shall appoint a task force, as provided in subsection (b), to study the problems of allocating the use of airport facilities and airspace (including, but not limited to, gate facilities, landing facilities, airspace slots, and ticketing and terminal space) among persons using or seeking to use such facilities. The task force shall make a study of present methods of allocating the use of airport facilities and airspace, and, if such action is determined to be appropriate, shall make recommendations for improving those methods and for resolving disputes with respect to the use of such facilities. The task force shall report its findings and recommendations to the chairman of the Committee on Public Works and Transportation of the House of Representatives and the chairman of the Committee on Commerce, Science, and Transportation of the Senate not later than one hundred and twenty days after the task force first meets under subsection (c).

Report to congressional committees.

(b) The task force shall consist of the Chairman of the Civil Aeronautics Board, who shall serve as chairman of the task force, and individuals appointed by the Secretary of Transportation not later than sixty days after the date of enactment of this title, including, but not limited to, a representative of each of the following:

(1) the Department of Transportation;

(2) the Department of Justice;

(3) States;

(4) owners and operators of airports, including those owners and operators of airports which do not restrict access, but which provide service to airports where access is currently restricted or is expected to be restricted in the future;

(5) trunk air carriers;

(6) regional air carriers (other than commuter air carriers);

(7) charter air carriers;

(8) commuter air carriers;

(9) all-cargo air carriers;

(10) general aviation;

(11) financial institutions with an interest in the aviation industry; and

(12) aviation consumer groups.

(c) The task force shall meet, at the direction of the chairman, not later than thirty days after all its members have been appointed under subsection (b), and at such other times as may be necessary to complete the study required by this section.

(d) The Secretary shall provide such staff and support services as may be necessary to assist the task force in completing the report required by this section.

SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

49 USC 2224.

(a) Beginning on the date of enactment of this title, the Secretary shall not close or operate on a part-time basis any flight service station except in accordance with this section.

(b) During the period beginning on the date of enactment of this title and ending on September 30, 1983, the Secretary may provide for the part-time operation of not more than sixty existing flight service stations operated by the Federal Aviation Administration. The operation of a flight service station on a part-time basis shall be subject to the condition that during any period when a flight service station is part-timed, the service provided to airmen with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station shall be as good as or better than the service provided when the station is open, and all such service shall be provided either by mechanical device or by contract with another party.

(c) The Secretary may close not more than five existing flight service stations before October 1, 1983. After October 1, 1983, the Secretary may close additional flight service stations, but only if the service provided to airmen after the closure of such station with respect to information relating to temperature, dewpoint, barometric pressure, ceiling, visibility, and wind direction and velocity for the area served by such station is as good as or better than the service provided when the station was open and such service is provided either by mechanical device or by contract with another party.

SEC. 529. EXPLOSIVE DETECTION K-9 TEAMS.

49 USC 2225.

The Secretary shall provide by grant for the continuation of the Explosive Detection K-9 Team Training Program for the purpose of detecting explosives at airports and aboard aircraft. There is authorized to be appropriated out of the Airport and Airway Trust Fund for purposes of this section not more than $150,000 nor less than $130,000 for each fiscal year beginning after September 30, 1981, and ending before October 1, 1987.

SEC. 530. RELEASE OF CERTAIN CONDITIONS.

(a) CRYSTAL CITY, TEXAS.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on January 3, 1949), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated January 3, 1949, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Crystal City, Texas, for airport purposes.

49 USC 1115 note.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Crystal City, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

49 USC 1115 note.

(b) Brownwood, Texas.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on June 26, 1950), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deeds of conveyance dated June 26, 1950, and April 1, 1963, under which the United States conveyed certain property to the city of Brownwood, Texas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city of Brownwood, Texas, shall agree that in conveying any interest in the property which the United States conveyed to the city by the deeds dated June 26, 1950, and April 1, 1963, the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

(c) Grand Junction, Colorado.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on September 14, 1951), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated September 14, 1951, under which the United States conveyed certain property to the city of Grand Junction, Colorado, for airport purposes and the deed of conveyance dated March 24, 1975, under which the city of Grand Junction, Colorado, conveyed such property to the Walker Field Public Airport Authority.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which releases are granted under this section shall not exceed a total of eighteen acres.

(B) The Walker Field Public Airport Authority shall agree that in leasing, or conveying any interest in, the property for which releases are granted under this section, such Authority will receive an amount which is equal to the fair lease value or the fair market value, as the case may be (as determined pursuant to regulations issued by such Secretary).

(C) Any such amount so received by the Walker Field Public Airport Authority, shall be used by such Authority for the development, improvement, operation, or maintenance of the Walker Field Public Airport.

(d) Newport, Arkansas.—(1) Notwithstanding section 16 of the Federal Airport Act (as in effect on December 17, 1947), the Secretary of Transportation is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (50 App. U.S.C. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance dated December 17, 1947, or any other deed of conveyance dated after such date and before the date of enactment of this section, under which the United States conveyed certain property to Newport, Arkansas, for airport purposes.

(2) Any release granted by the Secretary of Transportation under paragraph (1) of this subsection shall be subject to the following conditions:

(A) Newport, Arkansas, shall agree that in conveying any interest in the property which the United States conveyed to the city by a deed described in paragraph (1) the city will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by such Secretary).

(B) Any such amount so received by the city shall be used by the city for the development, improvement, operation, or maintenance of a public airport.

SEC. 531. CONTINUATION OF CERTAIN CERTIFICATES.

49 USC 1371.

Notwithstanding any other provision of law or of any certificate issued by the Civil Aeronautics Board to the contrary, any certificate to engage in temporary air transportation which was issued under section 401(d)(8) of the Federal Aviation Act of 1958 or pursuant to the Trans-Atlantic Route Proceeding, CAB Docket Number 25908, and any certificate which was issued in the California/Southwest-Mexico Route Proceeding, CAB Docket Number 32665, and which is in effect on the date of enactment of this title shall be effective for a period of two years beyond the period for which it was issued.

SEC. 532. STATE TAXATION.

(a) Section 1113(b) of the Federal Aviation Act of 1958 (49 U.S.C. 1513(b)) is amended by striking out "Nothing" and inserting in lieu thereof "Except as provided in subsection (d) of this section, nothing".

(b) Section 1113 of such Act is further amended by adding at the end thereof the following new subsection:

"(d)(1) The following acts unreasonably burden and discriminate against interstate commerce and a State, subdivision of a State, or authority acting for a State or subdivision of a State may not do any of them:

"(A) assess air carrier transportation property at a value that has a higher ratio to the true market value of the air carrier transportation property than the ratio that the assessed value of other commercial and industrial property of the same type in the same assessment jurisdiction has to the true market value of the other commercial and industrial property;

"(B) levy or collect a tax on an assessment that may not be made under subparagraph (A) of this paragraph; or

"(C) levy or collect an ad valorem property tax on air carrier transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

"(2) In this subsection—

"(A) 'assessment' means valuation for a property tax levied by a taxing district, "(B) 'assessment jurisdiction' means a geographical area in a State used in determining the assessed value of property for ad valorem taxation;

"(C) 'air carrier transportation property' means property, as defined by the Civil Aeronautics Board, owned or used by an air carrier providing air transportation;

"(D) 'commercial and industrial property' means property, other than transportation property and land used primarily for agricultural purposes or timber growing, devoted to a commercial or industrial use and subject to a property tax levy; and

"(E) 'State' shall include the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the District of Columbia, the territories or possessions of the United States, and political agencies of two or more States.

"(3) This subsection shall not apply to any in lieu tax which is wholly utilized for airport and aeronautical purposes.".

PUBLIC LAW 97-286—OCT. 6, 1982

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEAR 1983

Public Law 97-286
97th Congress

An Act

Oct. 6, 1982
[S. 2271]

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1983, and for other purposes.

National Bureau of Standards Authorization Act for Fiscal Year 1983.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1983".

AUTHORIZATION FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are hereby authorized to be appropriated to the Secretary of Commerce, hereinafter referred to as the Secretary, to carry out activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, for fiscal year 1983, $50,389,000.

(2) Engineering Measurements and Standards, for fiscal year 1983, $20,807,000.

(3) Computer Science and Technology, for fiscal year 1983, $10,000,000.

(4) Core Research Program for Innovation and Productivity, for fiscal year 1983, $11,188,000.

(5) Technical Competence Fund, for fiscal year 1983, $6,986,000.

(6) Fire Research Center, for fiscal year 1983, $4,991,000.

(7) Central Technical Support, for fiscal year 1983, $13,500,000.

(b) Notwithstanding any other provision of this or any other Act, for fiscal year 1983:

(1) of the total amount authorized under subsection (a)(4) not less than $3,000,000 shall be available for "Metals Processing";

(2) of the total amounts authorized under subsections (a)(1) and (a)(2), not less than $1,000,000 shall be available for "Measurement Standards for the Handicapped";

(3) of the total amount authorized under subsection (a)(3), not less than $10,000,000 shall be available for "Computer Science and Technology"; and

(4) of the total amount authorized under subsection (a)(4), $3,200,000 for "Robotics Research and Development".

EXCESS FOREIGN CURRENCY

SEC. 3. In addition to the sums authorized in section 2, not more than $500,000 is authorized for fiscal year 1983 for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 4. In addition to the sums authorized in section 2, the sum of $1,980,000 is authorized to be appropriated to the Assistant Secretary to carry out activities performed by the National Technical Information Service.

OFFICE OF PRODUCTIVITY, TECHNOLOGY AND INNOVATION

SEC. 5. In addition to the sums authorized in section 2, the sum of $1,898,000 is authorized to be appropriated to the Assistant Secretary for fiscal year 1983 for the purpose of research, development, and related activities in the field of innovation and productivity.

SALARY ADJUSTMENTS

SEC. 6. In addition to the sums authorized to be appropriated by this Act, such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law are authorized to be appropriated for fiscal year 1983 and, if the full amount necessary to make such adjustments is not appropriated, the adjustments shall be made proportionately from sections 4 and 5 and in the line items in section 2(a) in a manner reflecting the extent to which the amount of each such line item in section 2(a) is attributable to employee benefits of the type involved.

AVAILABILITY OF APPROPRIATIONS

SEC. 7. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

ACTIVITIES PERFORMED FOR OTHER AGENCIES

SEC. 8. The Secretary of Commerce shall charge for any service performed by the Bureau, at the request of another Government agency, in compliance with any statute, enacted before, on, or after the date of enactment of this Act, which names the Secretary or the Bureau as a consultant to another Government agency, or calls upon the Secretary or the Bureau to support or perform any activity for or on behalf of another Government agency, or to cooperate with any Government agency in the performance by that agency of any activity, regardless of whether the statute specifically requires reimbursement to the Secretary or the Bureau by such other Government agency for such service, unless funds are specifically appropriated to the Secretary or the Bureau to perform such service. The

Waiver.

Secretary may, however, waive any charge where the service rendered by the Bureau is such that the Bureau will incur only nominal costs in performing it. Costs shall be determined in accordance with section 12(e) of the Act of March 3, 1901, as amended (15 U.S.C. 278b(e)).

Approved October 6, 1982.

LEGISLATIVE HISTORY—S. 2271 (H.R. 5726):

HOUSE REPORT No. 97-501 accompanying H.R. 5726 (Comm. on Science and Technology).
SENATE REPORT No. 97-337 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 128 (1982):
  Apr. 29, considered and passed Senate.
  May 19, H.R. 5726 considered and passed House; proceedings vacated and S. 2271, amended, passed in lieu.
  Aug. 12, Senate concurred in House amendment with an amendment.
  Sept. 22, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 18, No. 40 (1982):
  Oct. 7, Presidential statement.

Public Law 97-324
97th Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

Oct. 15, 1982
[H.R. 5890]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Aeronautics and Space Administration Authoriation Act, 1983.

TITLE I

SEC. 101. There is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1982:

(a) For "Research and development", for the following programs:

(1) Space Shuttle, $1,798,000,000;
(2) Space flight operations, $1,699,000,000;
(3) Expendable launch vehicles, $42,800,000;
(4) Physics and astronomy, $473,700,000;
(5) Planetary exploration, $177,600,000;
(6) Life sciences, $55,700,000;
(7) Space applications, $336,300,000;
(8) Technology utilization, $9,000,000;
(9) Aeronautical research and technology, $280,000,000;
(10) Space research and technology, $128,000,000; and
(11) Tracking and data acquisition, $503,900,000.

(b) For "Construction of facilities", including land acquisition, as follows:

Facilities construction.

(1) Construction of data analysis facility, Hugh L. Dryden Flight Research Facility, $4,500,000;

(2) Rehabilitation and modification of utility systems, Goddard Space Flight Center, $2,840,000;

(3) Modifications to the 4- by 7-meter low speed tunnel, Langley Research Center, $7,200,000;

(4) Modifications to upgrade the transonic dynamics tunnel, Langley Research Center, $9,000,000;

(5) Modification of rocket engine test facility for altitude testing, Lewis Research Center, $995,000;

(6) Modification to 450 PSI air system in engine research building, Lewis Research Center, $2,920,000;

(7) Rehabilitation of airfield, Wallops Flight Center, $2,150,000;

(8) Space Shuttle facilities at various locations as follows:

(A) Modifications to solid rocket booster refurbishment and subassembly facilities, John F. Kennedy Space Center, $1,700,000;

(B) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $17,845,000;

(C) Minor Shuttle-unique projects, various locations, $1,860,000;

(9) Space Shuttle payload facility: Rehabilitation and modification for payload ground support operations, John F. Kennedy Space Center, $1,740,000;

(10) Repair of facilities at various locations, not in excess of $500,000 per project, $15,000,000;

(11) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $20,000,000;

(12) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,000,000; and

(13) Facility planning and design not otherwise provided for, $8,250,000.

Research and program management.

(c) For "Research and program management", $1,168,900,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Research and development.

(d) Notwithstanding the provisions of subsection (g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

Scientific consultations or extraordinary expenses.

(f) Appropriations made pursuant to subsection (c) may be used, but not to exceed $25,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

(g) Of the funds appropriated pursuant to subsections (a) and (c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection (a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (12), inclusive, of section 101(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

Report to congressional committees.

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

Transfer of funds.

SEC. 103. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 101(a) hereof may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to section 101(b) hereof (other than funds appropriated pursuant to paragraph (13) of such section) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in section 101(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of thirty days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. In calculating the thirty-day period referred to in the preceding sentence, any days on which either House is not in session because of an adjournment sine die or an adjournment of more than 5 days to a day certain shall be excluded, but in no event shall the total period extend beyond 45 days.

Report to congressional committees.

SEC. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 101(a) and 101(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

Notification to congressional committees.

unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action. In calculating the thirty-day period referred to in the preceding sentence, any days on which either House is not in session because of an adjournment sine die or an adjournment of more than five days to a day certain shall be excluded, but in no event shall the total period extend beyond forty-five days.

Federal research funds, geographical distribution. 42 USC 2459 note.

Sec. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

42 USC 2464.

Sec. 106. (a) Notwithstanding any other provision of law, or any interagency agreement, the Administrator of the National Aeronautics and Space Administration shall charge such prices as necessary to recover the fair value of placing Department of Defense payloads into orbit by means of the Space Shuttle.

42 USC 2464 note.

(b) This section shall apply to any Department of Defense payloads placed into orbit by means of the Space Shuttle on or after October 1, 1983.

15 USC 2201 note.

Sec. 107. (a) The Director of the Federal Emergency Management Agency shall ensure that all obligations and responsibilities imposed by the Federal Fire Prevention and Control Act of 1974 are performed during fiscal year 1983, including activities of the United States Fire Administration and the United States Fire Academy.

5 USC app.

(b) The Director shall reserve such funds as are appropriated to carry out the functions of the Federal Emergency Management Agency as designated in Reorganization Plan Numbered 3 of 1978 to conduct the operations of the United States Fire Administration, the United States Fire Academy, and such other functions and responsibilities as are vested in the Director pursuant to the Federal Fire Prevention and Control Act of 1974.

Short title.

Sec. 108. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1983".

TITLE II

Civil land remote sensing satellite systems.
15 USC 1517 note.

SEC. 201. (a) The Secretary of Commerce is hereby authorized to plan and provide for the management and operation of a civil land remote sensing satellite system, including the LANDSAT D and D' satellites and associated ground system equipment transferred from the National Aeronautics and Space Administration; to provide for user fees; and to plan for the transfer of the ownership and operation of civil operational land remote sensing satellite systems by the private sector when in the national interest. The provisions of this subsection expire September 30, 1984.

Expiration.

(b)(1) As part of his planning for the transfer of the ownership and operation of civil operational land remote sensing satellite systems to the private sector the Secretary shall—

Study.

(A) Conduct a study to define the current, projected, and potential needs of the government for land remote sensing data.

(B) Determine and describe the equipment, software, and data inventory that could be transferred to the private sector.

(C) Compare various feasible financial and organizational approaches for such a transfer. Criteria for the comparison should include considerations such as: maintenance of data continuity; maintenance of United States leadership; national security; international obligations; potential for market growth; marketing ability; sunk and projected cost to the Government; independence of subsidy or financial guarantee from the Government; potential of financial return to the Government; and price of data to users. The following institutional alternatives should be compared: (i) wholly private ownership and operation of the system by an entity competitively selected; (ii) phased-in Government/private ownership and operation; (iii) a legislatively chartered privately owned corporation; and (iv) continued ownership and operation by the Federal Government.

Report to Congress.

The Secretary shall complete these studies and report on them to the Congress by February 1, 1983.

Parallel studies, submittal to Congress.

(2) In addition to the studies and comparisons called for in section 201(b)(1) the Secretary shall fund at least two parallel studies outside the government independently to assess the alternatives called for in section 201(b)(1)(C). These studies should be submitted to the Congress by April 1, 1983.

(c) There is authorized to be appropriated $14,955,000 for the fiscal year 1983, for the purpose of carrying out the provisions of this title.

(d) No moneys authorized by this title shall be used to transfer to the private sector the ownership or management of any civil land remote sensing space satellite system and associated ground system equipment unless (A) a period of thirty days has passed after the receipt by the Speaker of the House of Representatives, the President of the Senate, the House Committee on Science and Technol-

ogy, and the Senate Committee on Commerce, Science, and Transportation, of a message from the Secretary of Commerce or his designee containing a full and complete plan for the action proposed to be taken together with the reasons therefor and expected funding impacts, or (B) each such committee before the expiration of such period has transmitted to the Secretary written notice to the effect that such committee has no objection to the proposed action.

Approved October 15, 1982.

LEGISLATIVE HISTORY—H.R. 5890 (S. 2604):

HOUSE REPORTS: No. 97-502 (Comm. on Science and Technology) and No. 97-897 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 128 (1982):

May 13, considered and passed House.

June 9, S. 2604 considered and passed Senate; proceedings vitiated and H.R. 5890, amended, passed in lieu.

Sept. 30, Senate agreed to conference report.

Oct. 1, House agreed to conference report.

Public Law 97-425
97th Congress

An Act

To provide for the development of repositories for the disposal of high-level radioactive waste and spent nuclear fuel, to establish a program of research, development, and demonstration regarding the disposal of high-level radioactive waste and spent nuclear fuel, and for other purposes.

Jan. 7, 1983
[H.R. 3809]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nuclear Waste Policy Act of 1982.
42 USC 10101 note.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "Nuclear Waste Policy Act of 1982".

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DEFINITIONS

42 USC 10101. SEC. 2. For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "affected Indian tribe" means any Indian tribe—

(A) within whose reservation boundaries a monitored retrievable storage facility, test and evaluation facility, or a repository for high-level radioactive waste or spent fuel is proposed to be located;

(B) whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties may be substantially and adversely affected by the locating of such a facility: *Provided*, That the Secretary of the Interior finds, upon the petition of the appropriate governmental officials of the tribe, that such effects are both substantial and adverse to the tribe;

(3) The term "atomic energy defense activity" means any activity of the Secretary performed in whole or in part in carrying out any of the following functions:

(A) naval reactors development;

(B) weapons activities including defense inertial confinement fusion;

(C) verification and control technology;

(D) defense nuclear materials production;

(E) defense nuclear waste and materials by-products management;

(F) defense nuclear materials security and safeguards and security investigations; and

(G) defense research and development.

(4) The term "candidate site" means an area, within a geologic and hydrologic system, that is recommended by the Secretary under section 112 for site characterization, approved by the President under section 112 for site characterization, or undergoing site characterization under section 113.

(5) The term "civilian nuclear activity" means any atomic energy activity other than an atomic energy defense activity.

(6) The term "civilian nuclear power reactor" means a civilian nuclear powerplant required to be licensed under section 103 or 104 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134(b)).

(7) The term "Commission" means the Nuclear Regulatory Commission.

(8) The term "Department" means the Department of Energy.

(9) The term "disposal" means the emplacement in a repository of high-level radioactive waste, spent nuclear fuel, or other highly radioactive material with no foreseeable intent of recovery, whether or not such emplacement permits the recovery of such waste.

(10) The terms "disposal package" and "package" mean the primary container that holds, and is in contact with, solidified high-level radioactive waste, spent nuclear fuel, or other radioactive materials, and any overpacks that are emplaced at a repository.

(11) The term "engineered barriers" means manmade components of a disposal system designed to prevent the release of radionuclides into the geologic medium involved. Such term includes the high-level radioactive waste form, high-level radioactive waste canisters, and other materials placed over and around such canisters.

(12) The term "high-level radioactive waste" means—

(A) the highly radioactive material resulting from the reprocessing of spent nuclear fuel, including liquid waste produced directly in reprocessing and any solid material derived from such liquid waste that contains fission products in sufficient concentrations; and

(B) other highly radioactive material that the Commission, consistent with existing law, determines by rule requires permanent isolation.

(13) The term "Federal agency" means any Executive agency, as defined in section 105 of title 5, United States Code.

(14) The term "Governor" means the chief executive officer of a State.

(15) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary of the Interior because of their status as Indians, including any Alaska Native village, as defined in section 3(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(c)).

(16) The term "low-level radioactive waste" means radioactive material that—

(A) is not high-level radioactive waste, spent nuclear fuel, transuranic waste, or by-product material as defined in section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)(2)); and

(B) the Commission, consistent with existing law, classifies as low-level radioactive waste.

(17) The term "Office" means the Office of Civilian Radioactive Waste Management established in section 305. *Post,* p. 2262.

(18) The term "repository" means any system licensed by the Commission that is intended to be used for, or may be used for, the permanent deep geologic disposal of high-level radioactive waste and spent nuclear fuel, whether or not such system is designed to permit the recovery, for a limited period during initial operation, of any materials placed in such system. Such term includes both surface and subsurface areas at which high-level radioactive waste and spent nuclear fuel handling activities are conducted.

(19) The term "reservation" means—

(A) any Indian reservation or dependent Indian community referred to in clause (a) or (b) of section 1151 of title 18, United States Code; or

(B) any land selected by an Alaska Native village or regional corporation under the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

(20) The term "Secretary" means the Secretary of Energy.

(21) The term "site characterization" means—

(A) siting research activities with respect to a test and evaluation facility at a candidate site; and

(B) activities, whether in the laboratory or in the field, undertaken to establish the geologic condition and the ranges of the parameters of a candidate site relevant to the location of a repository, including borings, surface excavations, excavations of exploratory shafts, limited subsurface lateral excavations and borings, and in situ testing needed to evaluate the suitability of a candidate site for the location of a repository, but not including preliminary borings and geophysical testing needed to assess whether site characterization should be undertaken.

(22) The term "siting research" means activities, including borings, surface excavations, shaft excavations, subsurface lateral excavations and borings, and in situ testing, to determine the suitability of a site for a test and evaluation facility.

(23) The term "spent nuclear fuel" means fuel that has been withdrawn from a nuclear reactor following irradiation, the constituent elements of which have not been separated by reprocessing.

(24) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(25) The term "storage" means retention of high-level radioactive waste, spent nuclear fuel, or transuranic waste with the intent to recover such waste or fuel for subsequent use, processing, or disposal.

(26) The term "Storage Fund" means the Interim Storage Fund established in section 137(c).

(27) The term "test and evaluation facility" means an at-depth, prototypic, underground cavity with subsurface lateral

excavations extending from a central shaft that is used for research and development purposes, including the development of data and experience for the safe handling and disposal of solidified high-level radioactive waste, transuranic waste, or spent nuclear fuel.

(28) The term "unit of general local government" means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State.

(29) The term "Waste Fund" means the Nuclear Waste Fund established in section 302(c). *Post*, p. 2257.

SEPARABILITY

SEC. 3. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby. 42 USC 10102.

TERRITORIES AND POSSESSIONS

SEC. 4. Nothing in this Act shall be deemed to repeal, modify, or amend the provisions of section 605 of the Act of March 12, 1980 (48 U.S.C. 1491). 42 USC 10103.

OCEAN DISPOSAL

SEC. 5. Nothing in this Act shall be deemed to affect the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.). 42 USC 10104.

LIMITATION ON SPENDING AUTHORITY

SEC. 6. The authority under this Act to incur indebtedness, or enter into contracts, obligating amounts to be expended by the Federal Government shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts. 42 USC 10105.

PROTECTION OF CLASSIFIED NATIONAL SECURITY INFORMATION

SEC. 7. Nothing in this Act shall require the release or disclosure to any person or to the Commission of any classified national security information. 42 USC 10106.

APPLICABILITY

SEC. 8. (a) ATOMIC ENERGY DEFENSE ACTIVITIES.—Subject to the provisions of subsection (c), the provisions of this Act shall not apply with respect to any atomic energy defense activity or to any facility used in connection with any such activity. 42 USC 10107.

(b) EVALUATION BY PRESIDENT.—(1) Not later than 2 years after the date of the enactment of this Act, the President shall evaluate the use of disposal capacity at one or more repositories to be developed under subtitle A of title I for the disposal of high-level radioactive waste resulting from atomic energy defense activities. Such evaluation shall take into consideration factors relating to cost *Post*, p. 2207.

efficiency, health and safety, regulation, transportation, public acceptability, and national security.

(2) Unless the President finds, after conducting the evaluation required in paragraph (1), that the development of a repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only is required, taking into account all of the factors described in such subsection, the Secretary shall proceed promptly with arrangement for the use of one or more of the repositories to be developed under subtitle A of title I for the disposal of such waste. Such arrangements shall include the allocation of costs of developing, constructing, and operating this repository or repositories. The costs resulting from permanent disposal of high-level radioactive waste from atomic energy defense activities shall be paid by the Federal Government, into the special account established under section 302.

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(3) Any repository for the disposal of high-level radioactive waste resulting from atomic energy defense activities only shall (A) be subject to licensing under section 202 of the Energy Reorganization Act of 1973 (42 U.S.C. 5842); and (B) comply with all requirements of the Commission for the siting, development, construction, and operation of a repository.

(c) Applicability to Certain Repositories.—The provisions of this Act shall apply with respect to any repository not used exclusively for the disposal of high-level radioactive waste or spent nuclear fuel resulting from atomic energy defense activities, research and development activities of the Secretary, or both.

APPLICABILITY

42 USC 10108.

Sec. 9. Transportation.—Nothing in this Act shall be construed to affect Federal, State, or local laws pertaining to the transportation of spent nuclear fuel or high-level radioactive waste.

TITLE I—DISPOSAL AND STORAGE OF HIGH-LEVEL RADIOACTIVE WASTE, SPENT NUCLEAR FUEL, AND LOW-LEVEL RADIOACTIVE WASTE

STATE AND AFFECTED INDIAN TRIBE PARTICIPATION IN DEVELOPMENT OF PROPOSED REPOSITORIES FOR DEFENSE WASTE

42 USC 10121.

Sec. 101. (a) Notification to States and Affected Indian Tribes.—Notwithstanding the provisions of section 8, upon any decision by the Secretary or the President to develop a repository for the disposal of high-level radioactive waste or spent nuclear fuel resulting exclusively from atomic energy defense activities, research and development activities of the Secretary, or both, and before proceeding with any site-specific investigations with respect to such repository, the Secretary shall notify the Governor and legislature of the State in which such repository is proposed to be located, or the governing body of the affected Indian tribe on whose reservation such repository is proposed to be located, as the case may be, of such decision.

(b) Participation of States and Affected Indian Tribes.—Following the receipt of any notification under subsection (a), the State or Indian tribe involved shall be entitled, with respect to the proposed repository involved, to rights of participation and consultation identical to those provided in sections 115 through 118, except that any financial assistance authorized to be provided to such State or affected Indian tribe under section 116(c) or 118(b) shall be made from amounts appropriated to the Secretary for purposes of carrying out this section.

SUBTITLE A—REPOSITORIES FOR DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

FINDINGS AND PURPOSES

SEC. 111. (a) FINDINGS.—The Congress finds that— 42 USC 10131.

(1) radioactive waste creates potential risks and requires safe and environmentally acceptable methods of disposal;

(2) a national problem has been created by the accumulation of (A) spent nuclear fuel from nuclear reactors; and (B) radioactive waste from (i) reprocessing of spent nuclear fuel; (ii) activities related to medical research, diagnosis, and treatment; and (iii) other sources;

(3) Federal efforts during the past 30 years to devise a permanent solution to the problems of civilian radioactive waste disposal have not been adequate;

(4) while the Federal Government has the responsibility to provide for the permanent disposal of high-level radioactive waste and such spent nuclear fuel as may be disposed of in order to protect the public health and safety and the environment, the costs of such disposal should be the responsibility of the generators and owners of such waste and spent fuel;

(5) the generators and owners of high-level radioactive waste and spent nuclear fuel have the primary responsibility to provide for, and the responsibility to pay the costs of, the interim storage of such waste and spent fuel until such waste and spent fuel is accepted by the Secretary of Energy in accordance with the provisions of this Act;

(6) State and public participation in the planning and development of repositories is essential in order to promote public confidence in the safety of disposal of such waste and spent fuel; and

(7) high-level radioactive waste and spent nuclear fuel have become major subjects of public concern, and appropriate precautions must be taken to ensure that such waste and spent fuel do not adversely affect the public health and safety and the environment for this or future generations.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to establish a schedule for the siting, construction, and operation of repositories that will provide a reasonable assurance that the public and the environment will be adequately protected from the hazards posed by high-level radioactive waste and such spent nuclear fuel as may be disposed of in a repository;

(2) to establish the Federal responsibility, and a definite Federal policy, for the disposal of such waste and spent fuel;

(3) to define the relationship between the Federal Government and the State governments with respect to the disposal of such waste and spent fuel; and

(4) to establish a Nuclear Waste Fund, composed of payments made by the generators and owners of such waste and spent fuel, that will ensure that the costs of carrying out activities

relating to the disposal of such waste and spent fuel will be borne by the persons responsible for generating such waste and spent fuel.

RECOMMENDATION OF CANDIDATE SITES FOR SITE CHARACTERIZATION

42 USC 10132.

SEC. 112. (a) GUIDELINES.—Not later than 180 days after the date of the enactment of this Act, the Secretary, following consultation with the Council on Environmental Quality, the Administrator of the Environmental Protection Agency, the Director of the Geological Survey, and interested Governors, and the concurrence of the Commission shall issue general guidelines for the recommendation of sites for repositories. Such guidelines shall specify detailed geologic considerations that shall be primary criteria for the selection of sites in various geologic media. Such guidelines shall specify factors that qualify or disqualify any site from development as a repository, including factors pertaining to the location of valuable natural resources, hydrology, geophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall take into consideration the proximity to sites where high-level radioactive waste and spent nuclear fuel is generated or temporarily stored and the transportation and safety factors involved in moving such waste to a repository. Such guidelines shall specify population factors that will disqualify any site from development as a repository if any surface facility of such repository would be located (1) in a highly populated area; or (2) adjacent to an area 1 mile by 1 mile having a population of not less than 1,000 individuals. Such guidelines also shall require the Secretary to consider the cost and impact of transporting to the repository site the solidified high-level radioactive waste and spent fuel to be disposed of in the repository and the advantages of regional distribution in the siting of repositories. Such guidelines shall require the Secretary to consider the various geologic media in which sites for repositories may be located and, to the extent practicable, to recommend sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering candidate sites for recommendation under subsection (b). The Secretary may revise such guidelines from time to time, consistent with the provisions of this subsection.

(b) RECOMMENDATION BY SECRETARY TO THE PRESIDENT.—(1)(A) Following the issuance of guidelines under subsection (a) and consultation with the Governors of affected States, the Secretary shall nominate at least 5 sites that he determines suitable for site characterization for selection of the first repository site.

Recommendation date.

(B) Subsequent to such nomination, the Secretary shall recommend to the President 3 of the nominated sites not later than January 1, 1985 for characterization as candidate sites.

(C) Not later than July 1, 1989, the Secretary shall nominate 5 sites, which shall include at least 3 additional sites not nominated under subparagraph (A), and recommend by such date to the President from such 5 nominated sites 3 candidate sites the Secretary determines suitable for site characterization for selection of the second repository. The Secretary may not nominate any site previously nominated under subparagraph (A), that was not recommended as a candidate site under subparagraph (B).

(D) Such recommendations under subparagraphs (B) and (C) shall be consistent with the provisions of section 305.

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Environmental assessment.

(E) Each nomination of a site under this subsection shall be accompanied by an environmental assessment, which shall include a detailed statement of the basis for such recommendation and of the probable impacts of the site characterization activities planned for such site, and a discussion of alternative activities relating to site characterization that may be undertaken to avoid such impacts. Such environmental assessment shall include—

(i) an evaluation by the Secretary as to whether such site is suitable for site characterization under the guidelines established under subsection (a);

(ii) an evaluation by the Secretary as to whether such site is suitable for development as a repository under each such guideline that does not require site characterization as a prerequisite for application of such guideline;

(iii) an evaluation by the Secretary of the effects of the site characterization activities at such site on the public health and safety and the environment;

(iv) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(v) a description of the decision process by which such site was recommended; and

(vi) an assessment of the regional and local impacts of locating the proposed repository at such site.

Judicial review.

(F)(i) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119. Such judicial review shall be limited to the sufficiency of such environmental assessment with respect to the items described in clauses (i) through (vi) of subparagraph (E).

5 USC 701 *et seq.*

Public availability.

(G) Each environmental assessment prepared under this paragraph shall be made available to the public.

(H) Before nominating a site, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such nomination and the basis for such nomination.

Hearings.

(2) Before nominating any site the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located of the proposed nomination of such site and to receive their comments. At such hearings, the Secretary shall also solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment described in paragraph (1) and the site characterization plan described in section 113(b)(1).

(3) In evaluating the sites nominated under this section prior to any decision to recommend a site as a candidate site, the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at a site unless (i) such preliminary boring or excavation activities were in progress upon the date of enactment of this Act or (ii) the Secretary certifies that such available informa-

tion from other sources, in the absence of preliminary borings or excavations, will not be adequate to satisfy applicable requirements of this Act or any other law: *Provided,* That preliminary borings or excavations under this section shall not exceed a diameter of 6 inches.

(c) PRESIDENTIAL REVIEW OF RECOMMENDED CANDIDATE SITES.—(1) The President shall review each candidate site recommendation made by the Secretary under subsection (b). Not later than 60 days after the submission by the Secretary of a recommendation of a candidate site, the President, in his discretion, may either approve or disapprove such candidate site, and shall transmit any such decision to the Secretary and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be. If, during such 60-day period, the President fails to approve or disapprove such candidate site, or fails to invoke his authority under paragraph (2) to delay his decision, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

Decision transmittal or notification.

(2) The President may delay for not more than 6 months his decision under paragraph (1) to approve or disapprove a candidate site, upon determining that the information provided with the recommendation of the Secretary is insufficient to permit a decision within the 60-day period referred to in paragraph (1). The President may invoke his authority under this paragraph by submitting written notice to the Congress, within such 60-day period, of his intent to invoke such authority. If the President invokes such authority, but fails to approve or disapprove the candidate site involved by the end of such 6-month period, such candidate site shall be considered to be approved, and the Secretary shall notify such Governor and legislature, or governing body of the affected Indian tribe, of the approval of such candidate site by reason of the inaction of the President.

(d) CONTINUATION OF CANDIDATE SITE SCREENING.—After the required recommendation of candidate sites under subsection (b), the Secretary may continue, as he determines necessary, to identify and study other sites to determine their suitability for recommendation for site characterization, in accordance with the procedures described in this section.

(e) PRELIMINARY ACTIVITIES.—Except as otherwise provided in this section, each activity of the President or the Secretary under this section shall be considered to be a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(f) TIMELY SITE CHARACTERIZATION.—Nothing in this section may be construed as prohibiting the Secretary from continuing ongoing or presently planned site characterization at any site on Department of Energy land for which the location of the principal borehole has been approved by the Secretary by August 1, 1982, except that (1) the environmental assessment described in subsection (b)(1) shall be prepared and made available to the public before proceeding to sink shafts at any such site; and (2) the Secretary shall not continue site characterization at any such site unless such site is among the candidate sites recommended by the Secretary under the first sentence of subsection (b) for site characterization and approved by the President under subsection (c); and (3) the Secretary shall conduct public hearings under 113(b)(2) and comply with requirements under section 117 of this Act within one year of the date of enactment. Hearings.

SITE CHARACTERIZATION

42 USC 10133.

SEC. 113. (a) IN GENERAL.—The Secretary shall carry out, in accordance with the provisions of this section, appropriate site characterization activities beginning with the candidate sites that have been approved under section 112 and are located in various geologic media. The Secretary shall consider fully the comments received under subsection (b)(2) and section 112(b)(2) and shall, to the maximum extent practicable and in consultation with the Governor of the State involved or the governing body of the affected Indian tribe involved, conduct site characterization activities in a manner that minimizes any significant adverse environmental impacts identified in such comments or in the environmental assessment submitted under subsection (b)(1).

Plan submittal, review and comment.

(b) COMMISSION AND STATES.—(1) Before proceeding to sink shafts at any candidate site, the Secretary shall submit for such candidate site to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe on whose reservation such candidate site is located, as the case may be, for their review and comment—

(A) a general plan for site characterization activities to be conducted at such candidate site, which plan shall include—

(i) a description of such candidate site;

(ii) a description of such site characterization activities, including the following: the extent of planned excavations, plans for any onsite testing with radioactive or nonradioactive material, plans for any investigation activities that may affect the capability of such candidate site to isolate high-level radioactive waste and spent nuclear fuel, and plans to control any adverse, safety-related impacts from such site characterization activities;

(iii) plans for the decontamination and decommissioning of such candidate site, and for the mitigation of any significant adverse environmental impacts caused by site characterization activities if it is determined unsuitable for application for a construction authorization for a repository;

(iv) criteria to be used to determine the suitability of such candidate site for the location of a repository, developed pursuant to section 112(a); and

(v) any other information required by the Commission;

(B) a description of the possible form or packaging for the high-level radioactive waste and spent nuclear fuel to be emplaced in such repository, a description, to the extent practicable, of the relationship between such waste form or packaging and the geologic medium of such site, and a description of the activities being conducted by the Secretary with respect to such possible waste form or packaging or such relationship; and

(C) a conceptual repository design that takes into account likely site-specific requirements.

Public availability; hearings.

(2) Before proceeding to sink shafts at any candidate site, the Secretary shall (A) make available to the public the site characterization plan described in paragraph (1); and (B) hold public hearings in the vicinity of such candidate site to inform the residents of the area in which such candidate site is located of such plan, and to receive their comments.

Report.

(3) During the conduct of site characterization activities at a candidate site, the Secretary shall report not less than once every 6 months to the Commission and to either the Governor and legislature of the State in which such candidate site is located, or the governing body of the affected Indian tribe where such candidate site is located, as the case may be, on the nature and extent of such activities and the information developed from such activities.

(c) RESTRICTIONS.—(1) The Secretary may conduct at any candidate site only such site characterization activities as the Secretary considers necessary to provide the data required for evaluation of the suitability of such candidate site for an application to be submitted to the Commission for a construction authorization for a repository at such candidate site, and for compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(2) In conducting site characterization activities—

(A) the Secretary may not use any radioactive material at a candidate site unless the Commission concurs that such use is necessary to provide data for the preparation of the required environmental reports and an application for a construction authorization for a repository at such candidate site; and

(B) if any radioactive material is used at a candidate site—

(i) the Secretary shall use the minimum quantity necessary to determine the suitability of such candidate site for a repository, but in no event more than the curie equivalent of 10 metric tons of spent nuclear fuel; and

(ii) such radioactive material shall be fully retrievable.

Notification of site termination.

(3) If site characterization activities are terminated at a candidate site for any reason, the Secretary shall (A) notify the Congress, the Governors and legislatures of all States in which candidate sites are located, and the governing bodies of all affected Indian tribes where candidate sites are located, of such termination and the reasons for such termination; and (B) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such candidate site as promptly as practicable.

(4) If a site is determined to be unsuitable for application for a construction authorization for a repository, the Secretary shall take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities.

(d) PRELIMINARY ACTIVITIES.—Each activity of the Secretary under this section that is in compliance with the provisions of subsection (c) shall be considered a preliminary decisionmaking activity. No such activity shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

SITE APPROVAL AND CONSTRUCTION AUTHORIZATION

42 USC 10134.

Sec. 114. (a) Hearings and Presidential Recommendation.—(1) The Secretary shall hold public hearings in the vicinity of each site under consideration for recommendation to the President under this paragraph as a site for the development of a repository, for the purposes of informing the residents of the area in which such site is located of such consideration and receiving their comments regarding the possible recommendation of such site. If, upon completion of such hearings and completion of site characterization activities at not less than 3 candidate sites for the first proposed repository, or from all of the characterized sites for the development of subsequent respositories, under section 113, the Secretary decides to recommend approval of such site to the President, the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such decision. No sooner than the expiration of the 30-day period following such notification, the Secretary shall submit to the President a recommendation that the President approve such site for the development of a repository. Any such recommendation by the Secretary shall be based on the record of information developed by the Secretary under section 113 and this section, including the information described in subparagraph (A) through subparagraph (G). In making site recommendations and approvals subsequent to the first site recommendation, the Secretary and the President, respectively, shall also consider the need for regional distribution of repositories and the need to minimize, to the extent practicable, the impacts and cost of transporting spent fuel and solidified high-level radioactive waste. Together with any recommendation of a site under this paragraph, the Secretary shall make available to the public, and submit to the President, a comprehensive statement of the basis of such recommendation, including the following:

Notification of decision.

Public availability.

(A) a description of the proposed repository, including preliminary engineering specifications for the facility;

(B) a description of the waste form or packaging proposed for use at such repository, and an explanation of the relationship between such waste form or packaging and the geologic medium of such site;

(C) a discussion of data, obtained in site characterization activities, relating to the safety of such site;

(D) a final environmental impact statement prepared pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including an analysis of the consideration given by the Secretary to not less than 3 candidate sites for the first proposed respository or to all of the characterized sites for the development of subsequent repositories, with respect to which site characterization is completed under section 113, together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that any such environmental impact statement concerning the first repository to be developed under this Act shall not be required to consider the need for a repository or the alternatives to geologic disposal;

(E) preliminary comments of the Commission concerning the extent to which the at-depth site characterization analysis and the waste form proposal for such site seem to be sufficient for inclusion in any application to be submitted by the Secretary for licensing of such site as a repository;

(F) the views and comments of the Governor and legislature of any State, or the governing body of any affected Indian tribe, as determined by the Secretary, together with the response of the Secretary to such views;

(G) such other information as the Secretary considers appropriate; and

(H) any impact report submitted under section 116(c)(2)(B) by the State in which such site is located, or under section 118(b)(3)(B) by the affected Indian tribe where such site is located, as the case may be.

Submittal to Congress.

(2)(A) Not later than March 31, 1987, the President shall submit to the Congress a recommendation of one site from the three sites initially characterized that the President considers qualified for application for a construction authorization for a repository. Not later than March 31, 1990, the President shall submit to the Congress a recommendation of a second site from any sites already characterized that the President considers qualified for a construction authorization for a second repository. The President shall submit with such recommendation a copy of the report for such site prepared by the Secretary under paragraph (1). After submission of the second such recommendation, the President may submit to the Congress recommendations for other sites, in accorance with the provisions of this subtitle.

Deadlines, extensions.

(B) The President may extend the deadlines described in subparagraph (A) by not more than 12 months if, before March 31, 1986, for the first site, and March 31, 1989, for the second site, (i) the President determines that such extension is necessary; and (ii) transmits to the Congress a report setting forth the reasons for such extension.

Submittal to Congress.

(3) If approval of any such site recommendation does not take effect as a result of a disapproval by the Governor or legislature of a State under section 116 or the governing body of an affected Indian tribe under section 118, the President shall submit to the Congress, not later than 1 year after the disapproval of such recommendation, a recommendation of another site for the first or subsequent repository.

(4)(A) The President may not recommend the approval of any site under this subsection unless the Secretary has recommended to the President under paragraph (1) approval of such site and has submitted to the President a report for such site as required under such paragraph.

(B) No recommendation of a site by the President under this subsection shall require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

(b) SUBMISSION OF APPLICATION.—If the President recommends to the Congress a site for a repository under subsection (a) and the site designation is permitted to take effect under section 115, the Secretary shall submit to the Commission an application for a construction authorization for a repository at such site not later than 90 days after the date on which the recommendation of the site designation is effective under such section and shall provide to the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, a copy of such application.

(c) Status Report on Application.—Not later than 1 year after the date on which an application for a construction authorization is submitted under subsection (b), and annually thereafter until the date on which such authorization is granted, the Commission shall submit a report to the Congress describing the proceedings undertaken through the date of such report with regard to such application, including a description of—

(1) any major unresolved safety issues, and the explanation of the Secretary with respect to design and operation plans for resolving such issues;

(2) any matters of contention regarding such application; and

(3) any Commission actions regarding the granting or denial of such authorization.

Construction authorization application.

(d) Commission Action.—The Commission shall consider an application for a construction authorization for all or part of a repository in accordance with the laws applicable to such applications, except that the Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than—

(1) January 1, 1989, for the first such application, and January 1, 1992, for the second such application; or

(2) the expiration of 3 years after the date of the submission of such application, except that the Commission may extend such deadline by not more than 12 months if, not less than 30 days before such deadline, the Commission complies with the reporting requirements established in subsection (e)(2);

whichever occurs later. The Commission decision approving the first such application shall prohibit the emplacement in the first repository of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of such a quantity of spent fuel until such time as a second repository is in operation. In the event that a monitored retrievable storage facility, approved pursuant to subtitle C of this Act, shall be located, or is planned to be located, within 50 miles of the first repository, then the Commission decision approving the first such application shall prohibit the emplacement of a quantity of spent fuel containing in excess of 70,000 metric tons of heavy metal or a quantity of solidified high-level radioactive waste resulting from the reprocessing of spent fuel in both the repository and monitored retrievable storage facility until such time as a second repository is in operation.

(e) Project Decision Schedule.—(1) The Secretary shall prepare and update, as appropriate, in cooperation with all affected Federal agencies, a project decision schedule that portrays the optimum way to attain the operation of the repository involved, within the time periods specified in this subtitle. Such schedule shall include a description of objectives and a sequence of deadlines for all Federal agencies required to take action, including an identification of the activities in which a delay in the start, or completion, of such activities will cause a delay in beginning repository operation.

Report submittal to Secretary and Congress.

(2) Any Federal agency that determines that it cannot comply with any deadline in the project decision schedule, or fails to so comply, shall submit to the Secretary and to the Congress a written report explaining the reason for its failure or expected failure to

meet such deadline, the reason why such agency could not reach an agreement with the Secretary, the estimated time for completion of the activity or activities involved, the associated effect on its other deadlines in the project decision schedule, and any recommendations it may have or actions it intends to take regarding any improvements in its operation or organization, or changes to its statutory directives or authority, so that it will be able to mitigate the delay involved. The Secretary, within 30 days after receiving any such report, shall file with the Congress his response to such report, including the reasons why the Secretary could not amend the project decision schedule to accommodate the Federal agency involved.

Report response, filing with Congress.

(f) Environmental Impact Statement.—Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository. With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository. For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 1321 et seq.) and this section, the Secretary shall consider as alternate sites for the first repository to be developed under this subtitle 3 candidate sites with respect to which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination, that such sites are suitable for development as respositories consistent with the guidelines promulgated under section 112(a). The Secretary shall consider as alternative sites for subsequent repositories at least three of the remaining sites recommended by the Secretary by January 1, 1985, and by July 1, 1989, pursuant to section 112(b) and approved by the President for site characterization pursuant to section 112(c) for which (1) site characterization has been completed under section 113; and (2) the Secretary has made a preliminary determination that such sites are suitable for development as respositories consistent with the guidelines promulgated under section 112(a). Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.). Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nucler Regulatory Commission as established in title II of the Energy Reorganization Act of 1974 (Public Law 93-438). In

42 USC 4321 *et seq.*

42 USC 5841.

any such statement prepared with respect to the first repository to be constructed under this subtitle, the need for a repository or nongeologic alternatives to the site of such repository shall not be considered.

REVIEW OF REPOSITORY SITE SELECTION

42 USC 10135.

SEC. 115. (a) DEFINITION.—For purposes of this section, the term "resolution of repository siting approval" means a joint resolution of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the site at .... for a repository, with respect to which a notice of disapproval was submitted by .... on ....". The first blank space in such resolution shall be filled with the name of the geographic location of the proposed site of the repository to which such resolution pertains; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or Indian tribe governing body submitting the notice of disapproval to which such resolution pertains; and the last blank space in such resolution shall be filled with the date of such submission.

(b) STATE OR INDIAN TRIBE PETITIONS.—The designation of a site as suitable for application for a construction authorization for a repository shall be effective at the end of the 60-day period beginning on the date that the President recommends such site to the Congress under section 114, unless the Governor and legislature of the State in which such site is located, or the governing body of an Indian tribe on whose reservation such site is located, as the case may be, has submitted to the Congress a notice of disapproval under section 116 or 118. If any such notice of disapproval has been submitted, the designation of such site shall not be effective except as provided under subsection (c).

Notice of disapproval, submittal to Congress.

(c) CONGRESSIONAL REVIEW OF PETITIONS.—If any notice of disapproval of a repository site designation has been submitted to the Congress under section 116 or 118 after a recommendation for approval of such site is made by the President under section 114, such site shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress after the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution of repository siting approval in accordance with this subsection approving such site, and such resolution thereafter becomes law.

(d) PROCEDURES APPLICABLE TO THE SENATE.—(1) The provisions of this subsection are enacted by the Congress—

(A) as an exercise of the rulemaking power of the Senate, and as such they are deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions of repository siting approval, and such provisions supersede other rules of the Senate only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

Introduction of resolution.

(2)(A) Not later than the first day of session following the day on which any notice of disapproval of a repository site selection is submitted to the Congress under section 116 or 118, a resolution of repository siting approval shall be introduced (by request) in the Senate by the chairman of the committee to which such notice of disapproval is referred, or by a Member or Members of the Senate designated by such chairman.

Committee recommendations.

(B) Upon introduction, a resolution of repository siting approval shall be referred to the appropriate committee or committees of the Senate by the President of the Senate, and all such resolutions with respect to the same repository site shall be referred to the same committee or committees. Upon the expiration of 60 calendar days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall make its recommendations to the Senate.

Discharge of committee.

(3) If any committee to which is referred a resolution of siting approval introduced under paragraph (2)(A), or, in the absence of such a resolution, any other resolution of siting approval introduced with respect to the site involved, has not reported such resolution at the end of 60 days of continuous session of Congress after introduction of such resolution, such committee shall be deemed to be discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the Senate.

(4)(A) When each committee to which a resolution of siting approval has been referred has reported, or has been deemed to be discharged from further consideration of, a resolution described in paragraph (3), it shall at any time thereafter be in order (even though a previous motion to the same effect has been disagreed to) for any Member of the Senate to move to proceed to the consideration of such resolution. Such motion shall be highly privileged and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which such motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of such resolution is agreed to, such resolution shall remain the unfinished business of the Senate until disposed of.

Debate.

(B) Debate on a resolution of siting approval, and on all debatable motions and appeals in connection with such resolution, shall be limited to not more than 10 hours, which shall be divided equally between Members favoring and Members opposing such resolution. A motion further to limit debate shall be in order and shall not be debatable. Such motion shall not be subject to amendment, to a motion to postpone, or to a motion to proceed to the consideration of other business, and a motion to recommit such resolution shall not be in order. A motion to reconsider the vote by which such resolution is agreed to or disagreed to shall not be in order.

(C) Immediately following the conclusion of the debate on a resolution of siting approval, and a single quorum call at the conclusion of such debate if requested in accordance with the rules of the Senate, the vote on final approval of such resolution shall occur.

Appeals.

(D) Appeals from the decisions of the Chair relating to the application of the rules of the Senate to the procedure relating to a resolution of siting approval shall be decided without debate.

(5) If the Senate receives from the House a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the House with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the Senate with respect to such site—

(i) the procedure with respect to that or other resolutions of the Senate with respect to such site shall be the same as if no resolution from the House with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the Senate with respect to such site, a resolution from the House with respect to such site where the text is identical shall be automatically substituted for the resolution of the Senate.

(e) PROCEDURES APPLICABLE TO THE HOUSE OF REPRESENTATIVES.—(1) The provisions of this section are enacted by the Congress—

(A) as an exercise of the rulemaking power of the House of Representatives, and as such they are deemed a part of the rules of the House, but applicable only with respect to the procedure to be followed in the House in the case of resolutions of repository siting approval, and such provisions supersede other rules of the House only to the extent that they are inconsistent with such other rules; and

(B) with full recognition of the constitutional right of the House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner and to the same extent as in the case of any other rule of the House.

(2) Resolutions of repository siting approval shall upon introduction, be immediately referred by the Speaker of the House to the appropriate committee or committees of the House. Any such resolution received from the Senate shall be held at the Speaker's table.

Discharge of committee.

(3) Upon the expiration of 60 days of continuous session after the introduction of the first resolution of repository siting approval with respect to any site, each committee to which such resolution was referred shall be discharged from further consideration of such resolution, and such resolution shall be referred to the appropriate calendar, unless such resolution or an identical resolution was previously reported by each committee to which it was referred.

Resolution, consideration and debate.

(4) It shall be in order for the Speaker to recognize a Member favoring a resolution to call up a resolution of repository siting approval after it has been on the appropriate calendar for 5 legislative days. When any such resolution is called up, the House shall proceed to its immediate consideration and the Speaker shall recognize the Member calling up such resolution and a Member opposed to such resolution for 2 hours of debate in the House, to be equally divided and controlled by such Members. When such time has expired, the previous question shall be considered as ordered on the resolution to adoption without intervening motion. No amendment to any such resolution shall be in order, nor shall it be in order to move to reconsider the vote by which such resolution is agreed to or disagreed to.

(5) If the House receives from the Senate a resolution of repository siting approval with respect to any site, then the following procedure shall apply:

(A) The resolution of the Senate with respect to such site shall not be referred to a committee.

(B) With respect to the resolution of the House with respect to such site—

(i) the procedure with respect to that or other resolutions of the House with respect to such site shall be the same as if no resolution from the Senate with respect to such site had been received; but

(ii) on any vote on final passage of a resolution of the House with respect to such site, a resolution from the Senate with respect to such site where the text is identical shall be automatically substituted for the resolution of the House.

(f) COMPUTATION OF DAYS.—For purposes of this section—

(1) continuity of session of Congress is broken only by an adjournment sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period referred to in subsection (c) and the 60-day period referred to in subsections (d) and (e).

(g) INFORMATION PROVIDED TO CONGRESS.—In considering any notice of disapproval submitted to the Congress under section 116 or 118, the Congress may obtain any comments of the Commission with respect to such notice of disapproval. The provision of such comments by the Commission shall not be construed as binding the Commission with respect to any licensing or authorization action concerning the repository involved.

PARTICIPATION OF STATES

42 USC 10136.

SEC. 116. (a) NOTIFICATION OF STATES AND AFFECTED TRIBES.—The Secretary shall identify the States with one or more potentially acceptable sites for a repository within 90 days after the date of enactment of this Act. Within 90 days of such identification, the Secretary shall notify the Governor, the State legislature, and the tribal council of any affected Indian tribe in any State of the potentially acceptable sites within such State. For the purposes of this title, the term "potentially acceptable site" means any site at which, after geologic studies and field mapping but before detailed geologic data gathering, the Department undertakes preliminary drilling and geophysical testing for the definition of site location.

"Potentially acceptable site."

(b) STATE PARTICIPATION IN REPOSITORY SITING DECISIONS.—(1) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under paragraph (2). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

Notice of disapproval, submittal to Congress.

(2) Upon the submission by the President to the Congress of a recommendation of a site for a repository, the Governor or legislature of the State in which such site is located may disapprove the site designation and submit to the Congress a notice of disapproval. Such Governor or legislature may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a state-

ment of reasons explaining why such Governor or legislature disapproved the recommended repository site involved.

(3) The authority of the Governor or legislature of each State under this subsection shall not be applicable with respect to any site located on a reservation.

Grants.

(c) FINANCIAL ASSISTANCE.—(1)(A) The Secretary shall make grants to each State notified under subsection (a) for the purpose of participating in activities required by sections 116 and 117 or authorized by written agreement entered into pursuant to subsection 117(c). Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

(B) The Secretary shall make grants to each State in which a candidate site for a repository is approved under section 112(c). Such grants may be made to each such State only for purposes of enabling such State—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the State and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to its residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(C) Any salary or travel expense that would ordinarily be incurred by such State, or by any political subdivision of such State, may not be considered eligible for funding under this paragraph.

Construction authorization.

(2)(A) The Secretary shall provide financial and technical assistance to any State requesting such assistance in which there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such State of the development of such repository. Such assistance to such State shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

Report submittal.

(B) Any State desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site in such State. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the State involved setting forth the amount of assistance to be provided to such State under this paragraph and the procedures to be followed in providing such assistance.

(3) The Secretary shall also grant to each State and unit of general local government in which a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such State and unit of general local government, respectively, would receive were they authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State and unit of general local government tax the other real property and industrial activities occurring within such State and unit of general local government. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Grants, limitations.

(4)(A) A State may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies the Governor and legislature of the State involved of the termination of site characterization activities at the candidate site involved in such State;

(ii) the date on which the site in such State is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site in the State approved under section 112(c) with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) A State may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

Funding limitations.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds shall be made available to such State under paragraph (1) or (2), except for—

(i) such funds as may be necessary to support State activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period.

(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

Post, p. 2257.

(d) Additional Notification and Consultation.—Whenever the Secretary is required under any provision of this Act to notify or consult with the governing body of an affected Indian tribe where a site is located, the Secretary shall also notify or consult with, as the case may be, the Governor of the State in which such reservation is located.

CONSULTATION WITH STATES AND AFFECTED INDIAN TRIBES

42 USC 10137.

Sec. 117. (a) Provision of Information.—(1) The Secretary, the Commission, and other agencies involved in the construction, operation, or regulation of any aspect of a repository in a State shall provide to the Governor and legislature of such State, and to the governing body of any affected Indian tribe, timely and complete information regarding determinations or plans made with respect to the site characterization siting, development, design, licensing, construction, operation, regulation, or decommissioning of such repository.

Information request, response.

(2) Upon written request for such information by the Governor or legislature of such State, or by the governing body of any affected Indian tribe, as the case may be, the Secretary shall provide a written response to such request within 30 days of the receipt of such request. Such response shall provide the information requested or, in the alternative, the reasons why the information cannot be so provided. If the Secretary fails to so respond within such 30 days, the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, may transmit a formal written objection to such failure to respond to the President. If the President or Secretary fails to respond to such written request within 30 days of the receipt by the President of such formal written objection, the Secretary shall immediately suspend all activities in such State authorized by this subtitle, and shall not renew such activities until the Governor or legislature of such State, or the governing body of any affected Indian tribe, as the case may be, has received the written response to such written request required by this subsection.

(b) Consultation and Cooperation.—In performing any study of an area within a State for the purpose of determining the suitability of such area for a repository pursuant to section 112(c), and in subsequently developing and loading any repository within such State, the Secretary shall consult and cooperate with the Governor and legislature of such State and the governing body of any affected Indian tribe in an effort to resolve the concerns of such State and any affected Indian tribe regarding the public health and safety, environmental, and economic impacts of any such repository. In carrying out his duties under this subtitle, the Secretary shall take such concerns into account to the maximum extent feasible and as specified in written agreements entered into under subsection (c).

(c) Written Agreement.—Not later than 60 days after (1) the approval of a site for site characterization for such a repository under section 112(c), or (2) the written request of the State or Indian tribe in any affected State notified under section 116(a) to the Secretary, whichever, first occurs, the Secretary shall seek to enter into a binding written agreement, and shall begin negotiations, with such State and, where appropriate, to enter into a separate binding agreement with the governing body of any affected Indian tribe, setting forth (but not limited to) the procedures under which the requirements of subsections (a) and (b), and the provisions of such written agreement, shall be carried out. Any such written agreement shall not affect the authority of the Commission under existing law. Each such written agreement shall, to the maximum extent feasible, be completed not later than 6 months after such notification. If such written agreement is not completed within such period, the Secretary shall report to the Congress in writing within 30 days on the status of negotiations to develop such agreement and the reasons why such agreement has not been completed. Prior to submission of such report to the Congress, the Secretary shall transmit such report to the Governor of such State or the governing body of such affected Indian tribe, as the case may be, for their review and comments. Such comments shall be included in such

Report to Congress.

Report, review and comments.

report prior to submission to the Congress. Such written agreement shall specify procedures—

(1) by which such State or governing body of an affected Indian tribe, as the case may be, may study, determine, comment on, and make recommendations with regard to the possible public health and safety, environmental, social, and economic impacts of any such repository;

(2) by which the Secretary shall consider and respond to comments and recommendations made by such State or governing body of an affected Indian tribe, including the period in which the Secretary shall so respond;

Review and modification.

(3) by which the Secretary and such State or governing body of an affected Indian tribe may review or modify the agreement periodically;

Report.

(4) by which such State or governing body of an affected Indian tribe is to submit an impact report and request for impact assistance under section 116(c) or section 118(b), as the case may be;

(5) by which the Secretary shall assist such State, and the units of general local government in the vicinity of the repository site, in resolving the offsite concerns of such State and units of general local government, including, but not limited to, questions of State liability arising from accidents, necessary road upgrading and access to the site, ongoing emergency preparedness and emergency response, monitoring of transportation of high-level radioactive waste and spent nuclear fuel through such State, conduct of baseline health studies of inhabitants in neighboring communities near the repository site and reasonable periodic monitoring thereafter, and monitoring of the repository site upon any decommissioning and decontamination;

(6) by which the Secretary shall consult and cooperate with such State on a regular, ongoing basis and provide for an orderly process and timely schedule for State review and evaluation, including identification in the agreement of key events, milestones, and decision points in the activities of the Secretary at the potential repository site;

Transportation of radioactive waste and spent nuclear fuel. State notification.

(7) by which the Secretary shall notify such State prior to the transportation of any high-level radioactive waste and spent nuclear fuel into such State for disposal at the repository site;

Monitoring and testing.

(8) by which such State may conduct reasonable independent monitoring and testing of activities on the repository site, except that such monitoring and testing shall not unreasonably interfere with or delay onsite activities;

(9) for sharing, in accordance with applicable law, of all technical and licensing information, the utilization of available expertise, the facilitating of permit procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws;

(10) for public notification of the procedures specified under the preceding paragraphs; and

(11) for resolving objections of a State and affected Indian tribes at any stage of the planning, siting, development, construction, operation, or closure of such a facility within such State through negotiation, arbitration, or other appropriate mechanisms.

PARTICIPATION OF INDIAN TRIBES

Notice of disapproval, submittal to Congress
42 USC 10138.

SEC. 118. (a) PARTICIPATION OF INDIAN TRIBES IN REPOSITORY SITING DECISIONS.—Upon the submission by the President to the Congress of a recommendation of a site for a repository located on the reservation of an affected Indian tribe, the governing body of such Indian tribe may disapprove the site designation and submit to the Congress a notice of disapproval. The governing body of such Indian tribe may submit such a notice of disapproval to the Congress not later than the 60 days after the date that the President recommends such site to the Congress under section 114. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the governing body of such Indian tribe disapproved the recommended repository site involved.

Grants.

(b) FINANCIAL ASSISTANCE.—(1) The Secretary shall make grants to each affected tribe notified under section 116(a) for the purpose of participating in activities required by section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such tribe, may not be considered eligible for funding under this paragraph.

(2)(A) The Secretary shall make grants to each affected Indian tribe where a candidate site for a repository is approved under section 112(c). Such grants may be made to each such Indian tribe only for purposes of enabling such Indian tribe—

(i) to review activities taken under this subtitle with respect to such site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of such repository on the reservation and its residents;

(ii) to develop a request for impact assistance under paragraph (2);

(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

(iv) to provide information to the residents of its reservation regarding any activities of such Indian tribe, the Secretary, or the Commission with respect to such site; and

(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

(B) The amount of funds provided to any affected Indian tribe under this paragraph in any fiscal year may not exceed 100 percent of the costs incurred by such Indian tribe with respect to the activities described in clauses (i) through (v) of subparagraph (A). Any salary or travel expense that would ordinarily be incurred by such Indian tribe may not be considered eligible for funding under this paragraph.

(3)(A) The Secretary shall provide financial and technical assistance to any affected Indian tribe requesting such assistance and where there is a site with respect to which the Commission has authorized construction of a repository. Such assistance shall be designed to mitigate the impact on such Indian tribe of the development of such repository. Such assistance to such Indian tribe shall commence within 6 months following the granting by the Commission of a construction authorization for such repository and following the initiation of construction activities at such site.

Report submittal.

(B) Any affected Indian tribe desiring assistance under this paragraph shall prepare and submit to the Secretary a report on any economic, social, public health and safety, and environmental impacts that are likely as a result of the development of a repository at a site on the reservation of such Indian tribe. Such report shall be submitted to the Secretary following the completion of site characterization activities at such site and before the recommendation of such site to the President by the Secretary for application for a construction authorization for a repository. As soon as practicable following the granting of a construction authorization for such repository, the Secretary shall seek to enter into a binding agreement with the Indian tribe involved setting forth the amount of assistance to be provided to such Indian tribe under this paragraph and the procedures to be followed in providing such assistance.

(4) The Secretary shall grant to each affected Indian tribe where a site for a repository is approved under section 112(c) an amount each fiscal year equal to the amount such Indian tribe would receive were it authorized to tax site characterization activities at such site, and the development and operation of such repository, as such Indian tribe taxes the other commercial activities occurring on such reservation. Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Grants, limitation.

(5) An affected Indian tribe may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

(i) the date on which the Secretary notifies such Indian tribe of the termination of site characterization activities at the candidate site involved on the reservation of such Indian tribe;

(ii) the date on which such site is disapproved under section 115; or

(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first, unless there is another candidate site on the reservation of such Indian tribe that is approved under section 112(c) and with respect to which the actions described in clauses (i), (ii), and (iii) have not been taken.

(B) An affected Indian tribe may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

Funding.

(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository at a site on the reservation of an affected Indian tribe, no Federal funds shall be made available under paragraph (1) or (2) to such Indian tribe, except for—

(i) such funds as may be necessary to support activities of such Indian tribe related to any other repository where a license to receive and possess has not been in effect for more than 1 year; and

(ii) such funds as may be necessary to support activities of such Indian tribe pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such Indian tribe with the Secretary during such 2-year period.

(6) Financial assistance authorized in this subsection shall be made out of amounts held in the Nuclear Waste Fund established in section 302.

Post, p. 2257.

JUDICIAL REVIEW OF AGENCY ACTIONS

SEC. 119. (a) JURISDICTION OF UNITED STATES COURTS OF APPEALS.—(1) Except for review in the Supreme Court of the United States, the United States courts of appeals shall have original and exclusive jurisdiction over any civil action—

42 USC 10139.

(A) for review of any final decision or action of the Secretary, the President, or the Commission under this subtitle;

(B) alleging the failure of the Secretary, the President, or the Commission to make any decision, or take any action, required under this subtitle;

(C) challenging the constitutionality of any decision made, or action taken, under any provision of this subtitle;

(D) for review of any environmental impact statement prepared pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) with respect to any action under this subtitle, or as required under section 135(c)(1), or alleging a failure to prepare such statement with respect to any such action;

(E) for review of any environmental assessment prepared under section 112(b)(1) or 135(c)(2); or

(F) for review of any research and development activity under title II.

Post, p. 2245.

(2) The venue of any proceeding under this section shall be in the judicial circuit in which the petitioner involved resides or has its principal office, or in the United States Court of Appeals for the District of Columbia.

(c) DEADLINE FOR COMMENCING ACTION.—A civil action for judicial review described under subsection (a)(1) may be brought not later than the 180th day after the date of the decision or action or failure to act involved, as the case may be, except that if a party shows that he did not know of the decision or action complained of (or of the failure to act), and that a reasonable person acting under the circumstances would not have known, such party may bring a civil action not later than the 180th day after the date such party acquired actual or constructive knowledge of such decision, action, or failure to act.

EXPEDITED AUTHORIZATIONS

SEC. 120. (a) ISSUANCE OF AUTHORIZATIONS.—(1) To the extent that the taking of any action related to the site characterization of a site or the construction or initial operation of a repository under this subtitle requires a certificate, right-of-way, permit, lease, or other authorization from a Federal agency or officer, such agency or officer shall issue or grant any such authorization at the earliest practicable date, to the extent permitted by the applicable provisions of law administered by such agency or officer. All actions of a Federal agency or officer with respect to consideration of applications or requests for the issuance or grant of any such authorization shall be expedited, and any such application or request shall take precedence over any similar applications or requests not related to such repositories.

42 USC 10140.

(2) The provisions of paragraph (1) shall not apply to any certificate, right-of-way, permit, lease, or other authorization issued or granted by, or requested from, the Commission.

(b) Terms of Authorizations.—Any authorization issued or granted pursuant to subsection (a) shall include such terms and conditions as may be required by law, and may include terms and conditions permitted by law.

CERTAIN STANDARDS AND CRITERIA

42 USC 10141.

Sec. 121. (a) Environmental Protection Agency Standards.—Not later than 1 year after the date of the enactment of this Act, the Administrator, pursuant to authority under other provisions of law, shall, by rule, promulgate generally applicable standards for protection of the general environment from offsite releases from radioactive material in repositories.

(b) Commission Requirements and Criteria.—(1)(A) Not later than January 1, 1984, the Commission, pursuant to authority under other provisions of law, shall, by rule, promulgate technical requirements and criteria that it will apply, under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) and the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), in approving or disapproving—

(i) applications for authorization to construct repositories;

(ii) applications for licenses to receive and possess spent nuclear fuel and high-level radioactive waste in such repositories; and

(iii) applications for authorization for closure and decommissioning of such repositories.

(B) Such criteria shall provide for the use of a system of multiple barriers in the design of the repository and shall include such restrictions on the retrievability of the solidified high-level radioactive waste and spent fuel emplaced in the repository as the Commission deems appropriate.

(C) Such requirements and criteria shall not be inconsistent with any comparable standards promulgated by the Administrator under subsection (a).

(2) For purposes of this Act, nothing in this section shall be construed to prohibit the Commission from promulgating requirements and criteria under paragraph (1) before the Administrator promulgates standards under subsection (a). If the Administrator promulgates standards under subsection (a) after requirements and criteria are promulgated by the Commission under paragraph (1), such requirements and criteria shall be revised by the Commission if necessary to comply with paragraph (1)(C).

(c) Environmental Impact Statement.—The promulgation of standards or criteria in accordance with the provisions of this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), or to require any environmental review under subparagraph (E) or (F) of section 102(2) of such Act.

DISPOSAL OF SPENT NUCLEAR FUEL

42 USC 10142.

Sec. 122. Notwithstanding any other provision of this subtitle, any repository constructed on a site approved under this subtitle shall be designed and constructed to permit the retrieval of any spent nuclear fuel placed in such repository, during an appropriate period of operation of the facility, for any reason pertaining to the public health and safety, or the environment, or for the purpose of permitting the recovery of the economically valuable contents of such spent fuel. The Secretary shall specify the appropriate period of retrievability with respect to any repository at the time of design of such repository, and such aspect of such repository shall be subject to approval or disapproval by the Commission as part of the construction authorization process under subsections (b) through (d) of section 114.

TITLE TO MATERIAL

SEC. 123. Delivery, and acceptance by the Secretary, of any high-level radioactive waste or spent nuclear fuel for a repository constructed under this subtitle shall constitute a transfer to the Secretary of title to such waste or spent fuel. 42 USC 10143.

CONSIDERATION OF EFFECT OF ACQUISITION OF WATER RIGHTS

SEC. 124. The Secretary shall give full consideration to whether the development, construction, and operation of a repository may require any purchase or other acquisition of water rights that will have a significant adverse effect on the present or future development of the area in which such repository is located. The Secretary shall mitigate any such adverse effects to the maximum extent practicable. 42 USC 10144.

TERMINATION OF CERTAIN PROVISIONS

SEC. 125. Sections 119 and 120 shall cease to have effect at such time as a repository developed under this subtitle is licensed to receive and possess high-level radioactive waste and spent nuclear fuel. 42 USC 10145.

SUBTITLE B—INTERIM STORAGE PROGRAM

FINDINGS AND PURPOSES

SEC. 131. (a) FINDINGS.—The Congress finds that— 42 USC 10151.

(1) the persons owning and operating civilian nuclear power reactors have the primary responsibility for providing interim storage of spent nuclear fuel from such reactors, by maximizing, to the extent practical, the effective use of existing storage facilities at the site of each civilian nuclear power reactor, and by adding new onsite storage capacity in a timely manner where practical;

(2) the Federal Government has the responsibility to encourage and expedite the effective use of existing storage facilities and the addition of needed new storage capacity at the site of each civilian nuclear power reactor; and

(3) the Federal Government has the responsibility to provide, in accordance with the provisions of this subtitle, not more than 1,900 metric tons of capacity for interim storage of spent nuclear fuel for civilian nuclear power reactors that cannot reasonably provide adequate storage capacity at the sites of such

reactors when needed to assure the continued, orderly operation of such reactors.

(b) PURPOSES.—The purposes of this subtitle are—

(1) to provide for the utilization of available spent nuclear fuel pools at the site of each civilian nuclear power reactor to the extent practical and the addition of new spent nuclear fuel storage capacity where practical at the site of such reactor; and

(2) to provide, in accordance with the provisions of this subtitle, for the establishment of a federally owned and operated system for the interim storage of spent nuclear fuel at one or more facilities owned by the Federal Government with not more than 1,900 metric tons of capacity to prevent disruptions in the orderly operation of any civilian nuclear power reactor that cannot reasonably provide adequate spent nuclear fuel storage capacity at the site of such reactor when needed.

AVAILABLE CAPACITY FOR INTERIM STORAGE OF SPENT NUCLEAR FUEL

42 USC 10152.

SEC. 132. The Secretary, the Commission, and other authorized Federal officials shall each take such actions as such official considers necessary to encourage and expedite the effective use of available storage, and necessary additional storage, at the site of each civilian nuclear power reactor consistent with—

(1) the protection of the public health and safety, and the environment;

(2) economic considerations;

(3) continued operation of such reactor;

(4) any applicable provisions of law; and

(5) the views of the population surrounding such reactor.

INTERIM AT REACTOR STORAGE

Licensing procedures.
42 USC 10153.

SEC. 133. The Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 219(a) for use at the site of any civilian nuclear power reactor. The establishment of such procedures shall not preclude the licensing, under any applicable procedures or rules of the Commission in effect prior to such establishment, of any technology for the storage of civilian spent nuclear fuel at the site of any civilian nuclear power reactor.

LICENSING OF FACILITY EXPANSIONS AND TRANSSHIPMENTS

42 USC 10154.

SEC. 134. (a) ORAL ARGUMENT.—In any Commission hearing under section 189 of the Atomic Energy Act of 1954 (42 U.S.C. 2239) on an application for a license, or for an amendment to an existing license, filed after the date of the enactment of this Act, to expand the spent nuclear fuel storage capacity at the site of a civilian nuclear power reactor, through the use of high-density fuel storage racks, fuel rod compaction, the transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, the construction of additional spent nuclear fuel pool capacity or dry storage capacity, or by other means, the Commission shall, at the request of any party, provide an opportunity for oral argument with respect to any matter which the Commission determines to be in controversy among the parties. The oral argument shall be preceded by such discovery procedures as the rules of the Commission shall

Summary submittal of facts, data and arguments.

provide. The Commission shall require each party, including the Commission staff, to submit in written form, at the time of the oral argument, a summary of the facts, data, and arguments upon which such party proposes to rely that are known at such time to such party. Only facts and data in the form of sworn testimony or written submission may be relied upon by the parties during oral argument. Of the materials that may be submitted by the parties during oral argument, the Commission shall only consider those facts and data that are submitted in the form of sworn testimony or written submission.

(b) ADJUDICATORY HEARING.—(1) At the conclusion of any oral argument under subsection (a), the Commission shall designate any disputed question of fact, together with any remaining questions of law, for resolution in an adjudicatory hearing only if it determines that—

(A) there is a genuine and substantial dispute of fact which can only be resolved with sufficient accuracy by the introduction of evidence in an adjudicatory hearing; and

(B) the decision of the Commission is likely to depend in whole or in part on the resolution of such dispute.

(2) In making a determination under this subsection, the Commission—

(A) shall designate in writing the specific facts that are in genuine and substantial dispute, the reason why the decision of the agency is likely to depend on the resolution of such facts, and the reason why an adjudicatory hearing is likely to resolve the dispute; and

(B) shall not consider—

(i) any issue relating to the design, construction, or operation of any civilian nuclear power reactor already licensed to operate at such site, or any civilian nuclear power reactor for which a construction permit has been granted at such site, unless the Commission determines that any such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered; or

(ii) any siting or design issue fully considered and decided by the Commission in connection with the issuance of a construction permit or operating license for a civilian nuclear power reactor at such site, unless (I) such issue results from any revision of siting or design criteria by the Commission following such decision; and (II) the Commission determines that such issue substantially affects the design, construction, or operation of the facility or activity for which such license application, authorization, or amendment is being considered.

(3) The provisions of paragraph (2)(B) shall apply only with respect to licenses, authorizations, or amendments to licenses or authorizations, applied for under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) before December 31, 2005.

(4) The provisions of this section shall not apply to the first application for a license or license amendment received by the Commission to expand onsite spent fuel storage capacity by the use of a new technology not previously approved for use at any nuclear powerplant by the Commission.

(c) Judicial Review.—No court shall hold unlawful or set aside a decision of the Commission in any proceeding described in subsection (a) because of a failure by the Commission to use a particular procedure pursuant to this section unless—

(1) an objection to the procedure used was presented to the Commission in a timely fashion or there are extraordinary circumstances that excuse the failure to present a timely objection; and

(2) the court finds that such failure has precluded a fair consideration and informed resolution of a significant issue of the proceeding taken as a whole.

STORAGE OF SPENT NUCLEAR FUEL

Ante, p. 2205.
42 USC 10155.

Sec. 135. (a) Storage Capacity.—(1) Subject to section 8, the Secretary shall provide, in accordance with paragraph (5), not more than 1,900 metric tons of capacity for the storage of spent nuclear fuel from civilian nuclear power reactors. Such storage capacity shall be provided through any one or more of the following methods, used in any combination determined by the Secretary to be appropriate:

(A) use of available capacity at one or more facilities owned by the Federal Government on the date of the enactment of this Act, including the modification and expansion of any such facilities, if the Commission determines that such use will adequately protect the public health and safety, except that such use shall not—

(i) render such facilities subject to licensing under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) or the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.); or

(ii) except as provided in subsection (c) require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)), such facility is already being used, or has previously been used, for such storage or for any similar purpose.

(B) acquisition of any modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, and provision of such equipment, to any person generating or holding title to spent nuclear fuel, at the site of any civilian nuclear power reactor operated by such person or at any site owned by the Federal Government on the date of enactment of this Act;

(C) construction of storage capacity at any site of a civilian nuclear power reactor.

(2) Storage capacity authorized by paragraph (1) shall not be provided at any Federal or non-Federal site within which there is a candidate site for a repository. The restriction in the preceding sentence shall only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository.

(3) In selecting methods of providing storage capacity under paragraph (1), the Secretary shall consider the timeliness of the availability of each such method and shall seek to minimize the transportation of spent nuclear fuel, the public health and safety impacts, and the costs of providing such storage capacity.

(4) In providing storage capacity through any method described in paragraph (1), the Secretary shall comply with any applicable requirements for licensing or authorization of such method, except as provided in paragraph (1)(A)(i).

(5) The Secretary shall ensure that storage capacity is made available under paragraph (1) when needed, as determined on the basis of the storage needs specified in contracts entered into under section 136(a), and shall accept upon request any spent nuclear fuel as covered under such contracts.

"Facility."

(6) For purposes of paragraph (1)(A), the term "facility" means any building or structure.

(b) CONTRACTS.—(1) Subject to the capacity limitation established in subsections (a) (1) and (d), the Secretary shall offer to enter into, and may enter into, contracts under section 136(a) with any person generating or owning spent nuclear fuel for purposes of providing storage capacity for such spent fuel under this section only if the Commission determines that—

(A) adequate storage capacity to ensure the continued orderly operation of the civilian nuclear power reactor at which such spent nuclear fuel is generated cannot reasonably be provided by the person owning and operating such reactor at such site, or at the site of any other civilian nuclear power reactor operated by such person, and such capacity cannot be made available in a timely manner through any method described in subparagraph (B); and

(B) such person is diligently pursuing licensed alternatives to the use of Federal storage capacity for the storage of spent nuclear fuel expected to be generated by such person in the future, including—

(i) expansion of storage facilities at the site of any civilian nuclear power reactor operated by such person;

(ii) construction of new or additional storage facilities at the site of any civilian nuclear power reactor operated by such person;

(iii) acquisition of modular or mobile spent nuclear fuel storage equipment, including spent nuclear fuel storage casks, for use at the site of any civilian nuclear power reactor operated by such person; and

(iv) transshipment to another civilian nuclear power reactor owned by such person.

(2) In making the determination described in paragraph (1)(A), the Commission shall ensure maintenance of a full core reserve storage capability at the site of the civilian nuclear power reactor involved unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor.

(3) The Commission shall complete the determinations required in paragraph (1) with respect to any request for storage capacity not later than 6 months after receipt of such request by the Commission.

(c) ENVIRONMENTAL REVIEW.—(1) The provision of 300 or more metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) shall be considered to be a major Federal action requiring preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)).

Public availability.

(2)(A) The Secretary shall prepare, and make available to the public, an environmental assessment of the probable impacts of any provision of less than 300 metric tons of storage capacity at any one Federal site under subsection (a)(1)(A) that requires the modification or expansion of any facility at the site, and a discussion of alternative activities that may be undertaken to avoid such impacts. Such environmental assessment shall include—

Environmental assessment.

(i) an estimate of the amount of storage capacity to be made available at such site;

(ii) an evaluation as to whether the facilities to be used at such site are suitable for the provision of such storage capacity;

(iii) a description of activities planned by the Secretary with respect to the modification or expansion of the facilities to be used at such site;

(iv) an evaluation of the effects of the provision of such storage capacity at such site on the public health and safety, and the environment;

(v) a reasonable comparative evaluation of current information with respect to such site and facilities and other sites and facilities available for the provision of such storage capacity;

(vi) a description of any other sites and facilities that have been considered by the Secretary for the provision of such storage capacity; and

(vii) an assessment of the regional and local impacts of providing such storage capacity at such site, including the impacts on transportation.

Judicial review.

5 USC 701 *et seq.*

(B) The issuance of any environmental assessment under this paragraph shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code. Such judicial review shall be limited to the sufficiency of such assessment with respect to the items described in clauses (i) through (vii) of subparagraph (A).

(3) Judicial review of any environmental impact statement or environmental assessment prepared pursuant to this subsection shall be conducted in accordance with the provisions of section 119.

(d) REVIEW OF SITES AND STATE PARTICIPATION.—(1) In carrying out the provisions of this subtitle with regard to any interim storage of spent fuel from civilian nuclear power reactors which the Secretary is authorized by section 135 to provide, the Secretary shall, as soon as practicable, notify, in writing, the Governor and the State legislature of any State and the Tribal Council of any affected Indian tribe in such State in which is located a potentially acceptable site or facility for such interim storage of spent fuel of his intention to investigate that site or facility.

Investigation.

(2) During the course of investigation of such site or facility, the Secretary shall keep the Governor, State legislature, and affected Tribal Council currently informed of the progress of the work, and results of the investigation. At the time of selection by the Secretary of any site or existing facility, but prior to undertaking any site-specific work or alterations, the Secretary shall promptly notify the Governor, the legislature, and any affected Tribal Council in writing of such selection, and subject to the provisions of paragraph (6) of this subsection, shall promptly enter into negotiations with such State and affected Tribal Council to establish a cooperative agreement under which such State and Council shall have the right to participate in a process of consultation and cooperation, based on public health and safety and environmental concerns, in all stages of the planning, development, modification, expansion, operation, and closure of storage capacity at a site or facility within such State

for the interim storage of spent fuel from civilian nuclear power reactors. Public participation in the negotiation of such an agreement shall be provided for and encouraged by the Secretary, the State, and the affected Tribal Council. The Secretary, in cooperation with the States and Indian tribes, shall develop and publish minimum guidelines for public participation in such negotiations, but the adequacy of such guidelines or any failure to comply with such guidelines shall not be a basis for judicial review.

Guidelines.

(3) The cooperative agreement shall include, but need not be limited to, the sharing in accordance with applicable law of all technical and licensing information, the utilization of available expertise, the facilitating of permitting procedures, joint project review, and the formulation of joint surveillance and monitoring arrangements to carry out applicable Federal and State laws. The cooperative agreement also shall include a detailed plan or schedule of milestones, decision points and opportunities for State or eligible Tribal Council review and objection. Such cooperative agreement shall provide procedures for negotiating and resolving objections of the State and affected Tribal Council in any stage of planning, development, modification, expansion, operation, or closure of storage capacity at a site or facility within such State. The terms of any cooperative agreement shall not affect the authority of the Nuclear Regulatory Commission under existing law.

Cooperative agreement.

(4) For the purpose of this subsection, "process of consultation and cooperation" means a methodology by which the Secretary (A) keeps the State and eligible Tribal Council fully and currently informed about the aspects of the project related to any potential impact on the public health and safety and environment; (B) solicits, receives, and evaluates concerns and objections of such State and Council with regard to such aspects of the project on an ongoing basis; and (C) works diligently and cooperatively to resolve, through arbitration or other appropriate mechanisms, such concerns and objections. The process of consultation and cooperation shall not include the grant of a right to any State or Tribal Council to exercise an absolute veto of any aspect of the planning, development, modification, expansion, or operation of the project.

"Process of consultation and cooperation."

(5) The Secretary and the State and affected Tribal Council shall seek to conclude the agreement required by paragraph (2) as soon as practicable, but not later than 180 days following the date of notification of the selection under paragraph (2). The Secretary shall periodically report to the Congress thereafter on the status of the agreements approved under paragraph (3). Any report to the Congress on the status of negotiations of such agreement by the Secretary shall be accompanied by comments solicited by the Secretary from the State and eligible Tribal Council.

Report to Congress.

(6)(A) Upon deciding to provide an aggregate of 300 or more metric tons of storage capacity under subsection (a)(1) at any one site, the Secretary shall notify the Governor and legislature of the State where such site is located, or the governing body of the Indian tribe in whose reservation such site is located, as the case may be, of such decision. During the 60-day period following receipt of notification by the Secretary of his decision to provide an aggregate of 300 or more metric tons of storage capacity at any one site, the Governor or legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, may disapprove the provision of 300 or more metric tons of storage capacity at the site involved and submit to the

Notice of disapproval, submittal to Congress.

Congress a notice of such disapproval. A notice of disapproval shall be considered to be submitted to the Congress on the date of the transmittal of such notice of disapproval to the Speaker of the House and the President pro tempore of the Senate. Such notice of disapproval shall be accompanied by a statement of reasons explaining why the provision of such storage capacity at such site was disapproved by such Governor or legislature or the governing body of such Indian tribe.

(B) Unless otherwise provided by State law, the Governor or legislature of each State shall have authority to submit a notice of disapproval to the Congress under subparagraph (A). In any case in which State law provides for submission of any such notice of disapproval by any other person or entity, any reference in this subtitle to the Governor or legislature of such State shall be considered to refer instead to such other person or entity.

(C) The authority of the Governor and legislature of each State under this paragraph shall not be applicable with respect to any site located on a reservation.

Ante, p. 2217.

"Resolution."

(D) If any notice of disapproval is submitted to the Congress under subparagraph (A), the proposed provision of 300 or more metric tons of storage capacity at the site involved shall be disapproved unless, during the first period of 90 calendar days of continuous session of the Congress following the date of the receipt by the Congress of such notice of disapproval, the Congress passes a resolution approving such proposed provision of storage capacity in accordance with the procedures established in this paragraph and subsections (d) through (f) of section 115 and such resolution thereafter becomes law. For purposes of this paragraph, the term "resolution" means a joint resolution of either House of the Congress, the matter after the resolving clause of which is as follows: "That there hereby is approved the provision of 300 or more metric tons of spent nuclear fuel storage capacity at the site located at ______________, with respect to which a notice of disapproval was submitted by ______________ on ______________.". The first blank space in such resolution shall be filled with the geographic location of the site involved; the second blank space in such resolution shall be filled with the designation of the State Governor and legislature or affected Indian tribe governing body submitting the notice of disapproval involved; and the last blank space in such resolution shall be filled with the date of submission of such notice of disapproval.

(E) For purposes of the consideration of any resolution described in subparagraph (D), each reference in subsections (d) and (e) of section 115 to a resolution of repository siting approval shall be considered to refer to the resolution described in such subparagraph.

"Affected Tribal Council."

(7) As used in this section, the term "affected Tribal Council" means the governing body of any Indian tribe within whose reservation boundaries there is located a potentially acceptable site for interim storage capacity of spent nuclear fuel from civilian nuclear power reactors, or within whose boundaries a site for such capacity is selected by the Secretary, or whose federally defined possessory or usage rights to other lands outside of the reservation's boundaries arising out of congressionally ratified treaties, as determined by the Secretary of the Interior pursuant to a petition filed with him by the appropriate governmental officials of such tribe, may be substantially and adversely affected by the establishment of any such storage capacity.

(e) Limitations.—Any spent nuclear fuel stored under this section shall be removed from the storage site or facility involved as soon as practicable, but in any event not later than 3 years following the date on which a repository or monitored retrievable storage facility developed under this Act is available for disposal of such spent nuclear fuel.

(f) Report.—The Secretary shall annually prepare and submit to the Congress a report on any plans of the Secretary for providing storage capacity under this section. Such report shall include a description of the specific manner of providing such storage selected by the Secretary, if any. The Secretary shall prepare and submit the first such report not later than 1 year after the date of the enactment of this Act.

(g) Criteria for Determining Adequacy of Available Storage Capacity.—Not later than 90 days after the date of the enactment of this Act, the Commission pursuant to section 553 of the Administrative Procedures Act, shall propose, by rule, procedures and criteria for making the determination required by subsection (b) that a person owning and operating a civilian nuclear power reactor cannot reasonably provide adequate spent nuclear fuel storage capacity at the civilian nuclear power reactor site when needed to ensure the continued orderly operation of such reactor. Such criteria shall ensure the maintenance of a full core reserve storage capability at the site of such reactor unless the Commission determines that maintenance of such capability is not necessary for the continued orderly operation of such reactor. Such criteria shall identify the feasibility of reasonably providing such adequate spent nuclear fuel storage capacity, taking into account economic, technical, regulatory, and public health and safety factors, through the use of high-density fuel storage racks, fuel rod compaction, transshipment of spent nuclear fuel to another civilian nuclear power reactor within the same utility system, construction of additional spent nuclear fuel pool capacity, or such other technologies as may be approved by the Commission. 5 USC 553.

(h) Application.—Notwithstanding any other provision of law, nothing in this Act shall be construed to encourage, authorize, or require the private or Federal use, purchase, lease, or other acquisition of any storage facility located away from the site of any civilian nuclear power reactor and not owned by the Federal Government on the date of the enactment of this Act.

(i) Coordination with Research and Development Program.—To the extent available, and consistent with the provisions of this section, the Secretary shall provide spent nuclear fuel for the research and development program authorized in section 217 from spent nuclear fuel received by the Secretary for storage under this section. Such spent nuclear fuel shall not be subject to the provisions of subsection (e).

INTERIM STORAGE FUND

Sec. 136. (a) Contracts.—(1) During the period following the date of the enactment of this Act, but not later than January 1, 1990, the Secretary is authorized to enter into contracts with persons who generate or own spent nuclear fuel resulting from civilian nuclear activities for the storage of such spent nuclear fuel in any storage capacity provided under this subtitle: *Provided, however,* That the Secretary shall not enter into contracts for spent nuclear fuel in 42 USC 10156.

amounts in excess of the available storage capacity specified in section 135(a). Those contracts shall provide that the Federal Government will (1) take title at the civilian nuclear power reactor site, to such amounts of spent nuclear fuel from the civilian nuclear power reactor as the Commission determines cannot be stored onsite, (2) transport the spent nuclear fuel to a federally owned and operated interim away-from-reactor storage facility, and (3) store such fuel in the facility pending further processing, storage, or disposal. Each such contract shall (A) provide for payment to the Secretary of fees determined in accordance with the provisions of this section; and (B) specify the amount of storage capacity to be provided for the person involved.

Study; report to Congress.

(2) The Secretary shall undertake a study and, not later than 180 days after the date of the enactment of this Act, submit to the Congress a report, establishing payment charges that shall be calculated on an annual basis, commencing on or before January 1, 1984. Such payment charges and the calculation thereof shall be published in the Federal Register, and shall become effective not less than 30 days after publication. Each payment charge published in the Federal Register under this paragraph shall remain effective for a period of 12 months from the effective date as the charge for the cost of the interim storage of any spent nuclear fuel. The report of the Secretary shall specify the method and manner of collection (including the rates and manner of payment) and any legislative recommendations determined by the Secretary to be appropriate.

Publication in Federal Register.

Fees.

(3) Fees for storage under this subtitle shall be established on a nondiscriminatory basis. The fees to be paid by each person entering into a contract with the Secretary under this subsection shall be based upon an estimate of the pro rata costs of storage and related activities under this subtitle with respect to such person, including the acquisition, construction, operation, and maintenance of any facilities under this subtitle.

(4) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such storage services shall be made available.

(5) Except as provided in section 137, nothing in this or any other Act requires the Secretary, in carrying out the responsibilities of this section, to obtain a license or permit to possess or own spent nuclear fuel.

(b) LIMITATION.—No spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be stored by the Secretary in any storage capacity provided under this subtitle unless such department transfers to the Secretary, for deposit in the Interim Storage Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such spent nuclear fuel were generated by any other person.

(c) ESTABLISHMENT OF INTERIM STORAGE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Interim Storage Fund. The Storage Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Storage Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Storage Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the interim storage of civilian spent nuclear fuel, which shall automatically be transferred to the Storage Fund on such date.

(d) USE OF STORAGE FUND.—The Secretary may make expenditures from the Storage Fund, subject to subsection (e), for any purpose necessary or appropriate to the conduct of the functions and activities of the Secretary, or the provision or anticipated provision of services, under this subtitle, including—

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any interim storage facility provided under this subtitle;

(2) the administrative cost of the interim storage program;

(3) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at an interim storage site, consistent with the restrictions in section 135;

(4) the cost of transportation of spent nuclear fuel; and

(5) impact assistance as described in subsection (e).

Payments.

(e) IMPACT ASSISTANCE.—(1) Beginning the first fiscal year which commences after the date of the enactment of this Act, the Secretary shall make annual impact assistance payments to a State or appropriate unit of local government, or both, in order to mitigate social or economic impacts occasioned by the establishment and subsequent operation of any interim storage capacity within the jurisdicational boundaries of such government or governments and authorized under this subtitle: *Provided, however,* That such impact assistance payments shall not exceed (A) ten per centum of the costs incurred in paragraphs (1) and (2), or (B) $15 per kilogram of spent fuel, whichever is less;

(2) Payments made available to States and units of local government pursuant to this section shall be—

(A) allocated in a fair and equitable manner with a priority to those States or units of local government suffering the most severe impacts; and

(B) utilized by States or units of local governments only for (i) planning, (ii) construction and maintenance of public services, (iii) provision of public services related to the providing of such interim storage authorized under this title, and (iv) compensation for loss of taxable property equivalent to that if the storage had been provided under private ownership.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines necessary to ensure that the purposes of this subsection shall be achieved. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

Regulations.

(4) Payments under this subsection shall be made available solely from the fees determined under subsection (a).

(5) The Secretary is authorized to consult with States and appropriate units of local government in advance of commencement of establishment of storage capacity authorized under this subtitle in an effort to determine the level of the payment such government would be eligible to receive pursuant to this subsection.

"Unit of local government."

(6) As used in this subsection, the term "unit of local government" means a county, parish, township, municipality, and shall include a

borough existing in the State of Alaska on the date of the enactment of this subsection, and any other unit of government below the State level which is a unit of general government as determined by the Secretary.

Report to Congress.

(f) ADMINISTRATION OF STORAGE FUND.—(1) The Secretary of the Treasury shall hold the Storage Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Storage Fund during the preceding fiscal year.

Budget submittal.

Ante, p. 907.

(2) The Secretary shall submit the budget of the Storage Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. The budget of the Storage Fund shall consist of estimates made by the Secretary of expenditures from the Storage Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Storage Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Storage Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Storage Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

Ante, p. 927.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Storage Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code.

(5) If at any time the moneys available in the Storage Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Storage Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of

title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States. *Ante*, p. 937.

Interest payments

(6) Any appropriations made available to the Storage Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Storage Fund, less the average undisbursed cash balance in the Storage Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

Deferral

42 USC 10157.

SEC. 137. (a) TRANSPORTATION.—(1) Transportation of spent nuclear fuel under section 136(a) shall be subject to licensing and regulation by the Commission and by the Secretary of Transportation as provided for transportation of commercial spent nuclear fuel under existing law.

(2) The Secretary, in providing for the transportation of spent nuclear fuel under this Act, shall utilize by contract private industry to the fullest extent possible in each aspect of such transportation. The Secretary shall use direct Federal services for such transportation only upon a determination of the Secretary of Transportation, in consultation with the Secretary, that private industry is unable or unwilling to provide such transportation services at reasonable cost.

SUBTITLE C—MONITORED RETRIEVABLE STORAGE

MONITORED RETRIEVABLE STORAGE

42 USC 10161.

SEC. 141. (a) FINDINGS.—The Congress finds that—

(1) long-term storage of high-level radioactive waste or spent nuclear fuel in monitored retrievable storage facilities is an option for providing safe and reliable management of such waste or spent fuel;

(2) the executive branch and the Congress should proceed as expeditiously as possible to consider fully a proposal for construction of one or more monitored retrievable storage facilities to provide such long-term storage;

(3) the Federal Government has the responsibility to ensure that site-specific designs for such facilities are available as provided in this section;

(4) the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities have the responsibility to pay the costs of the long-term storage of such waste and spent fuel; and

(5) disposal of high-level radioactive waste and spent nuclear fuel in a repository developed under this Act should proceed

regardless of any construction of a monitored retrievable storage facility pursuant to this section.

(b) SUBMISSION OF PROPOSAL BY SECRETARY.—(1) On or before June 1, 1985, the Secretary shall complete a detailed study of the need for and feasibility of, and shall submit to the Congress a proposal for, the construction of one or more monitored retrievable storage facilities for high-level radioactive waste and spent nuclear fuel. Each such facility shall be designed—

(A) to accommodate spent nuclear fuel and high-level radioactive waste resulting from civilian nuclear activities;

(B) to permit continuous monitoring, management, and maintenance of such spent fuel and waste for the foreseeable future;

(C) to provide for the ready retrieval of such spent fuel and waste for further processing or disposal; and

(D) to safely store such spent fuel and waste as long as may be necessary by maintaining such facility through appropriate means, including any required replacement of such facility.

(2) Such proposal shall include—

(A) the establishment of a Federal program for the siting, development, construction, and operation of facilities capable of safely storing high-level radioactive waste and spent nuclear fuel, which facilities are to be licensed by the Commission;

(B) a plan for the funding of the construction and operation of such facilities, which plan shall provide that the costs of such activities shall be borne by the generators and owners of the high-level radioactive waste and spent nuclear fuel to be stored in such facilities;

(C) site-specific designs, specifications, and cost estimates sufficient to (i) solicit bids for the construction of the first such facility; (ii) support congressional authorization of the construction of such facility; and (iii) enable completion and operation of such facility as soon as practicable following congressional authorization of such facility; and

(D) a plan for integrating facilities constructed pursuant to this section with other storage and disposal facilities authorized in this Act.

Consultations.

(3) In formulating such proposal, the Secretary shall consult with the Commission and the Administrator, and shall submit their comments on such proposal to the Congress at the time such proposal is submitted.

(4) The proposal shall include, for the first such facility, at least 3 alternative sites and at least 5 alternative combinations of such proposed sites and facility designs consistent with the criteria of paragraph (b)(1). The Secretary shall recommend the combination among the alternatives that the Secretary deems preferable. The environmental assessment under subsection (c) shall include a full analysis of the relative advantages and disadvantages of all 5 such alternative combinations of proposed sites and proposed facility designs.

(c) ENVIRONMENTAL IMPACT STATEMENTS.—(1) Preparation and submission to the Congress of the proposal required in this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare, in accordance with regulations issued by the Secretary implementing such Act, an environmental assessment with respect to such proposal. Such environmental assessment shall be based upon available

Environmental assessment.

information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such proposal is submitted.

Submittal to Congress.

(2) If the Congress by law, after review of the proposal submitted by the Secretary under subsection (b), specifically authorizes construction of a monitored retrievable storage facility, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of such facility, except that any environmental impact statement prepared with respect to such facility shall not be required to consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(d) Licensing.—Any facility authorized pursuant to this section shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of the first such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in subsection (b)(1).

(e) Clarification.—Nothing in this section limits the consideration of alternative facility designs consistent with the criteria of paragraph (b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored, retrievable facility authorized pursuant to this section.

Payments.

(f) Impact Assistance.—(1) Upon receipt by the Secretary of congressional authorization to construct a facility described in subsection (b), the Secretary shall commence making annual impact aid payments to appropriate units of general local government in order to mitigate any social or economic impacts resulting from the construction and subsequent operation of any such facility within the jurisdictional boundaries of any such unit.

(2) Payments made available to units of general local government under this subsection shall be—

(A) allocated in a fair and equitable manner, with priority given to units of general local government determined by the Secretary to be most severely affected; and

(B) utilized by units of general local government only for planning, construction, maintenance, and provision of public services related to the siting of such facility.

(3) Such payments shall be subject to such terms and conditions as the Secretary determines are necessary to ensure achievement of the purposes of this subsection. The Secretary shall issue such regulations as may be necessary to carry out the provisions of this subsection.

Regulations.

(4) Such payments shall be made available entirely from funds held in the Nuclear Waste Fund established in section 302(c) and shall be available only to the extent provided in advance in appropriation Acts.

Consultations.

(5) The Secretary may consult with appropriate units of general local government in advance of commencement of construction of any such facility in an effort to determine the level of payments each such unit is eligible to receive under this subsection.

(g) Limitation.—No monitored retrievable storage facility developed pursuant to this section may be constructed in any State in which there is located any site approved for site characterization under section 112. The restriction in the preceding sentence shall

Ante, p. 2208.

only apply until such time as the Secretary decides that such candidate site is no longer a candidate site under consideration for development as a repository. Such restriction shall continue to apply to any site selected for construction as a repository.

Ante, pp. 2217, 2220, 2222, 2225.

(h) **Participation of States and Indian Tribes.**—Any facility authorized pursuant to this section shall be subject to the provisions of sections 115, 116(a), 116(b), 116(d), 117, and 118. For purposes of carrying out the provisions of this subsection, any reference in sections 115 through 118 to a repository shall be considered to refer to a monitored retrievable storage facility.

SUBTITLE D—LOW-LEVEL RADIOACTIVE WASTE

FINANCIAL ARRANGEMENTS FOR LOW-LEVEL RADIOACTIVE WASTE SITE CLOSURE

42 USC 10171.

SEC. 151. (a) **Financial Arrangements.**—(1) The Commission shall establish by rule, regulation, or order, after public notice, and in accordance with section 181 of the Atomic Energy Act of 1954 (42 U.S.C. 2231), such standards and instructions as the Commission may deem necessary or desirable to ensure in the case of each license for the disposal of low-level radioactive waste that an adequate bond, surety, or other financial arrangement (as determined by the Commission) will be provided by a licensee to permit completion of all requirements established by the Commission for the decontamination, decommissioning, site closure, and reclamation of sites, structures, and equipment used in conjunction with such low-level radioactive waste. Such financial arrangements shall be provided and approved by the Commission, or, in the case of sites within the boundaries of any agreement State under section 274 of the Atomic Energy Act of 1954 (42 U.S.C. 2021), by the appropriate State or State entity, prior to issuance of licenses for low-level radioactive waste disposal or, in the case of licenses in effect on the date of the enactment of this Act, prior to termination of such licenses.

(2) If the Commission determines that any long-term maintenance or monitoring, or both, will be necessary at a site described in paragraph (1), the Commission shall ensure before termination of the license involved that the licensee has made available such bonding, surety, or other financial arrangements as may be necessary to ensure that any necessary long-term maintenance or monitoring needed for such site will be carried out by the person having title and custody for such site following license termination.

(b) **Title and Custody.**—(1) The Secretary shall have authority to assume title and custody of low-level radioactive waste and the land on which such waste is disposed of, upon request of the owner of such waste and land and following termination of the license issued by the Commission for such disposal, if the Commission determines that—

(A) the requirements of the Commission for site closure, decommissioning, and decontamination have been met by the licensee involved and that such licensee is in compliance with the provisions of subsection (a);

(B) such title and custody will be transferred to the Secretary without cost to the Federal Government; and

(C) Federal ownership and management of such site is necessary or desirable in order to protect the public health and safety, and the environment.

(2) If the Secretary assumes title and custody of any such waste and land under this subsection, the Secretary shall maintain such waste and land in a manner that will protect the public health and safety, and the environment.

(c) SPECIAL SITES.—If the low-level radioactive waste involved is the result of a licensed activity to recover zirconium, hafnium, and rare earths from source material, the Secretary, upon request of the owner of the site involved, shall assume title and custody of such waste and the land on which it is disposed when such site has been decontaminated and stabilized in accordance with the requirements established by the Commission and when such owner has made adequate financial arrangements approved by the Commission for the long-term maintenance and monitoring of such site.

TITLE II—RESEARCH, DEVELOPMENT, AND DEMONSTRATION REGARDING DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE AND SPENT NUCLEAR FUEL

PURPOSE

SEC. 211. It is the purpose of this title— 42 USC 10191.

(1) to provide direction to the Secretary with respect to the disposal of high-level radioactive waste and spent nuclear fuel;

(2) to authorize the Secretary, pursuant to this title—

(A) to provide for the construction, operation, and maintenance of a deep geologic test and evaluation facility; and

(B) to provide for a focused and integrated high-level radioactive waste and spent nuclear fuel research and development program, including the development of a test and evaluation facility to carry out research and provide an integrated demonstration of the technology for deep geologic disposal of high-level radioactive waste, and the development of the facilities to demonstrate dry storage of spent nuclear fuel; and

(3) to provide for an improved cooperative role between the Federal Government and States, affected Indian tribes, and units of general local government in the siting of a test and evaluation facility.

APPLICABILITY

SEC. 212. The provisions of this title are subject to section 8 and shall not apply to facilities that are used for the disposal of high-level radioactive waste, low-level radioactive waste, transuranic waste, or spent nuclear fuel resulting from atomic energy defense activities. *Ante*, p. 2205. 42 USC 10192.

IDENTIFICATION OF SITES

SEC. 213. (a) GUIDELINES.—Not later than 6 months after the date of the enactment of this Act and notwithstanding the failure of other agencies to promulgate standards pursuant to applicable law, the Secretary, in consultation with the Commission, the Director of the Geological Survey, the Administrator, the Council on Environ- 42 USC 10193.

mental Quality, and such other Federal agencies as the Secretary considers appropriate, is authorized to issue, pursuant to section 553 of title 5, United States Code, general guidelines for the selection of a site for a test and evaluation facility. Under such guidelines the Secretary shall specify factors that qualify or disqualify a site for development as a test and evaluation facility, including factors pertaining to the location of valuable natural resources, hydrogeophysics, seismic activity, and atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, and proximity to components of the National Park System, the National Wildlife Refuge System, the National Wild and Scenic Rivers System, the National Wilderness Preservation System, or National Forest Lands. Such guidelines shall require the Secretary to consider the various geologic media in which the site for a test and evaluation facility may be located and, to the extent practicable, to identify sites in different geologic media. The Secretary shall use guidelines established under this subsection in considering and selecting sites under this title.

(b) SITE IDENTIFICATION BY THE SECRETARY.—(1) Not later than 1 year after the date of the enactment of this Act, and following promulgation of guidelines under subsection (a), the Secretary is authorized to identify 3 or more sites, at least 2 of which shall be in different geologic media in the continental United States, and at least 1 of which shall be in media other than salt. Subject to Commission requirements, the Secretary shall give preference to sites for the test and evaluation facility in media possessing geochemical characteristics that retard aqueous transport of radionuclides. In order to provide a greater possible protection of public health and safety as operating experience is gained at the test and evaluation facility, and with the exception of the primary areas under review by the Secretary on the date of the enactment of this Act for the location of a test and evaluation facility or repository, all sites identified under this subsection shall be more than 15 statute miles from towns having a population of greater than 1,000 persons as determined by the most recent census unless such sites contain high-level radioactive waste prior to identification under this title. Each identification of a site shall be supported by an environmental assessment, which shall include a detailed statement of the basis for such identification and of the probable impacts of the siting research activities planned for such site, and a discussion of alternative activities relating to siting research that may be undertaken to avoid such impacts. Such environmental assessment shall include—

Environmental assessment.

(A) an evaluation by the Secretary as to whether such site is suitable for siting research under the guidelines established under subsection (a);

(B) an evaluation by the Secretary of the effects of the siting research activities at such site on the public health and safety and the environment;

(C) a reasonable comparative evaluation by the Secretary of such site with other sites and locations that have been considered;

(D) a description of the decision process by which such site was recommended; and

(E) an assessment of the regional and local impacts of locating the proposed test and evaluation facility at such site.

(2) When the Secretary identifies a site, the Secretary shall as soon as possible notify the Governor of the State in which such site

is located, or the governing body of the affected Indian tribe where such site is located, of such identification and the basis of such identification. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be identified after such 1 year period, following the same procedure as if such sites had been identified within such period.

SITING RESEARCH AND RELATED ACTIVITIES

42 USC 10194.

SEC. 214. (a) IN GENERAL.—Not later than 30 months after the date on which the Secretary completes the identification of sites under section 213, the Secretary is authorized to complete sufficient evaluation of 3 sites to select a site for expanded siting research activities and for other activities under section 218. The Secretary is authorized to conduct such preconstruction activities relative to such site selection for the test and evaluation facility as he deems appropriate. Additional sites for the location of the test and evaluation facility authorized in section 302(d) may be evaluated after such 30-month period, following the same procedures as if such sites were to be evaluated within such period.

(b) PUBLIC MEETINGS AND ENVIRONMENTAL ASSESSMENT.—Not later than 6 months after the date on which the Secretary completes the identification of sites under section 213, and before beginning siting research activities, the Secretary shall hold at least 1 public meeting in the vicinity of each site to inform the residents of the area of the activities to be conducted at such site and to receive their views.

(c) RESTRICTIONS.—Except as provided in section 218 with respect to a test and evaluation facility, in conducting siting research activities pursuant to subsection (a)—

(1) the Secretary shall use the minimum quantity of high-level radioactive waste or other radioactive materials, if any, necessary to achieve the test or research objectives;

(2) the Secretary shall ensure that any radioactive material used or placed on a site shall be fully retrievable; and

(3) upon termination of siting research activities at a site for any reason, the Secretary shall remove any radioactive material at or in the site as promptly as practicable.

(d) TITLE TO MATERIAL.—The Secretary may take title, in the name of the Federal Government, to the high-level radioactive waste, spent nuclear fuel, or other radioactive material emplaced in a test and evaluation facility. If the Secretary takes title to any such material, the Secretary shall enter into the appropriate financial arrangements described in subsection (a) or (b) of section 302 for the disposal of such material.

TEST AND EVALUATION FACILITY SITING REVIEW AND REPORTS

42 USC 10195.

SEC. 215. (a) CONSULTATION AND COOPERATION.—The Governor of a State, or the governing body of an affected Indian tribe, notified of a site identification under section 213 shall have the right to participate in a process of consultation and cooperation as soon as the site involved has been identified pursuant to such section and throughout the life of the test and evaluation facility. For purposes of this section, the term "process of consultation and cooperation" means a methodology—

"Process of consultation and cooperation."

(1) by which the Secretary—

(A) keeps the Governor or governing body involved fully and currently informed about any potential economic or public health and safety impacts in all stages of the siting, development, construction, and operation of a test and evaluation facility;

(B) solicits, receives, and evaluates concerns and objections of such Governor or governing body with regard to such test and evaluation facility on an ongoing basis; and

(C) works diligently and cooperatively to resolve such concerns and objections; and

(2) by which the State or affected Indian tribe involved can exercise reasonable independent monitoring and testing of onsite activities related to all stages of the siting, development, construction and operation of the test and evaluation facility, except that any such monitoring and testing shall not unreasonably interfere with onsite activities.

(b) Written Agreements.—The Secretary shall enter into written agreements with the Governor of the State in which an identified site is located or with the governing body of any affected Indian tribe where an identified site is located in order to expedite the consultation and cooperation process. Any such written agreement shall specify—

(1) procedures by which such Governor or governing body may study, determine, comment on, and make recommendations with regard to the possible health, safety, and economic impacts of the test and evaluation facility;

(2) procedures by which the Secretary shall consider and respond to comments and recommendations made by such Governor or governing body, including the period in which the Secretary shall so respond;

(3) the documents the Department is to submit to such Governor or governing body, the timing for such submissions, the timing for such Governor or governing body to identify public health and safety concerns and the process to be followed to try to eliminate those concerns;

(4) procedures by which the Secretary and either such Governor or governing body may review or modify the agreement periodically; and

(5) procedures for public notification of the procedures specified under subparagraphs (A) through (D).

(c) Limitation.—Except as specifically provided in this section, nothing in this title is intended to grant any State or affected Indian tribe any authority with respect to the siting, development, or loading of the test and evaluation facility.

FEDERAL AGENCY ACTIONS

42 USC 10196.

Sec. 216. (a) Cooperation and Coordination.—Federal agencies shall assist the Secretary by cooperating and coordinating with the Secretary in the preparation of any necessary reports under this title and the mission plan under section 301.

(b) Environmental Review.—(1) No action of the Secretary or any other Federal agency required by this title or section 301 with respect to a test and evaluation facility to be taken prior to the initiation of onsite construction of a test and evaluation facility shall require the preparation of an environmental impact statement under section 102(2)(C) of the Environmental Policy Act of 1969 (42

U.S.C. 4332(2)(C)), or to require the preparation of environmental reports, except as otherwise specifically provided for in this title.

(2) The Secretary and the heads of all other Federal agencies shall, to the maximum extent possible, avoid duplication of efforts in the preparation of reports under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

RESEARCH AND DEVELOPMENT ON DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE

42 USC 10197.

SEC. 217. (a) PURPOSE.—Not later than 64 months after the date of the enactment of this Act, the Secretary is authorized to, to the extent practicable, begin at a site evaluated under section 214, as part of and as an extension of siting research activities of such site under such section, the mining and construction of a test and evaluation facility. Prior to the mining and construction of such facility, the Secretary shall prepare an environmental assessment. The purpose of such facility shall be—

Environmental assessment.

(1) to supplement and focus the repository site characterization process;

(2) to provide the conditions under which known technological components can be integrated to demonstrate a functioning repository-like system;

(3) to provide a means of identifying, evaluating, and resolving potential repository licensing issues that could not be resolved during the siting research program conducted under section 212;

(4) to validate, under actual conditions, the scientific models used in the design of a repository;

(5) to refine the design and engineering of repository components and systems and to confirm the predicted behavior of such components and systems;

(6) to supplement the siting data, the generic and specific geological characteristics developed under section 214 relating to isolating disposal materials in the physical environment of a repository;

(7) to evaluate the design concepts for packaging, handling, and emplacement of high-level radioactive waste and spent nuclear fuel at the design rate; and

(8) to establish operating capability without exposing workers to excessive radiation.

(b) DESIGN.—The Secretary shall design each test and evaluation facility—

(1) to be capable of receiving not more than 100 full-sized canisters of solidified high-level radioactive waste (which canisters shall not exceed an aggregate weight of 100 metric tons), except that spent nuclear fuel may be used instead of such waste if such waste cannot be obtained under reasonable conditions;

(2) to permit full retrieval of solidified high-level radioactive waste, or other radioactive material used by the Secretary for testing, upon completion of the technology demonstration activities; and

(3) based upon the principle that the high-level radioactive waste, spent nuclear fuel, or other radioactive material involved shall be isolated from the biosphere in such a way that the

initial isolation is provided by engineered barriers functioning as a system with the geologic environment.

Testing.

(c) OPERATION.—(1) Not later than 88 months after the date of the enactment of this Act, the Secretary shall begin an in situ testing program at the test and evaluation facility in accordance with the mission plan developed under section 301, for purposes of—

(A) conducting in situ tests of bore hole sealing, geologic media fracture sealing, and room closure to establish the techniques and performance for isolation of high-level radioactive waste, spent nuclear fuel, or other radioactive materials from the biosphere;

(B) conducting in situ tests with radioactive sources and materials to evaluate and improve reliable models for radionuclide migration, absorption, and containment within the engineered barriers and geologic media involved, if the Secretary finds there is reasonable assurance that such radioactive sources and materials will not threaten the use of such site as a repository;

(C) conducting in situ tests to evaluate and improve models for ground water or brine flow through fractured geologic media;

(D) conducting in situ tests under conditions representing the real time and the accelerated time behavior of the engineered barriers within the geologic environment involved;

(E) conducting in situ tests to evaluate the effects of heat and pressure on the geologic media involved, on the hydrology of the surrounding area, and on the integrity of the disposal packages;

(F) conducting in situ tests under both normal and abnormal repository conditions to establish safe design limits for disposal packages and to determine the effects of the gross release of radionuclides into surroundings, and the effects of various credible failure modes, including—

(i) seismic events leading to the coupling of aquifers through the test and evaluation facility;

(ii) thermal pulses significantly greater than the maximum calculated; and

(iii) human intrusion creating a direct pathway to the biosphere; and

(G) conducting such other research and development activities as the Secretary considers appropriate, including such activities necessary to obtain the use of high-level radioactive waste, spent nuclear fuel, or other radioactive materials (such as any highly radioactive material from the Three Mile Island nuclear powerplant or from the West Valley Demonstration Project) for test and evaluation purposes, if such other activities are reasonably necessary to support the repository program and if there is reasonable assurance that the radioactive sources involved will not threaten the use of such site as a repository.

(2) The in situ testing authorized in this subsection shall be designed to ensure that the suitability of the site involved for licensing by the Commission as a repository will not be adversely affected.

(d) USE OF EXISTING DEPARTMENT FACILITIES.—During the conducting of siting research activities under section 214 and for such period thereafter as the Secretary considers appropriate, the Secretary shall use Department facilities owned by the Federal Government on the date of the enactment of this Act for the conducting of generically applicable tests regarding packaging, handling, and emplacement technology for solidified high-level radioactive waste and spent nuclear fuel from civilian nuclear activities.

(e) Engineered Barriers.—The system of engineered barriers and selected geology used in a test and evaluation facility shall have a design life at least as long as that which the Commission requires by regulations issued under this Act, or under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), for repositories.

(f) Role of Commission.—(1)(A) Not later than 1 year after the date of the enactment of this Act, the Secretary and the Commission shall reach a written understanding establishing the procedures for review, consultation, and coordination in the planning, construction, and operation of the test and evaluation facility under this section. Such understanding shall establish a schedule, consistent with the deadlines set forth in this subtitle, for submission by the Secretary of, and review by the Commission of and necessary action on—

(i) the mission plan prepared under section 301; and

(ii) such reports and other information as the Commission may reasonably require to evaluate any health and safety impacts of the test and evaluation facility.

(B) Such understanding shall also establish the conditions under which the Commission may have access to the test and evaluation facility for the purpose of assessing any public health and safety concerns that it may have. No shafts may be excavated for the test and evaluation until the Secretary and the Commission enter into such understanding.

(2) Subject to section 305, the test and evaluation facility, and the facilities authorized in section 217, shall be constructed and operated as research, development, and demonstration facilities, and shall not be subject to licensing under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

(3)(A) The Commission shall carry out a continuing analysis of the activities undertaken under this section to evaluate the adequacy of the consideration of public health and safety issues.

(B) The Commission shall report to the President, the Secretary, and the Congress as the Commission considers appropriate with respect to the conduct of activities under this section.

(g) Environmental Review.—The Secretary shall prepare an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) prior to conducting tests with radioactive materials at the test and evaluation facility. Such environmental impact statement shall incorporate, to the extent practicable, the environmental assessment prepared under section 217(a). Nothing in this subsection may be construed to limit siting research activities conducted under section 214. This subsection shall apply only to activities performed exclusively for a test and evaluation facility.

(h) Limitations.—(1) If the test and evaluation facility is not located at the site of a repository, the Secretary shall obtain the concurrence of the Commission with respect to the decontamination and decommissioning of such facility.

(2) If the test and evaluation facility is not located at a candidate site or repository site, the Secretary shall conduct only the portion of the in situ testing program required in subsection (c) determined by the Secretary to be useful in carrying out the purposes of this Act.

Termination.

(3) The operation of the test and evaluation facility shall terminate not later than—

(A) 5 years after the date on which the initial repository begins operation; or

(B) at such time as the Secretary determines that the continued operation of a test and evaluation facility is not necessary for research, development, and demonstration purposes;

whichever occurs sooner.

(4) Notwithstanding any other provisions of this subsection, as soon as practicable following any determination by the Secretary, with the concurrence of the Commission, that the test and evaluation facility is unsuitable for continued operation, the Secretary shall take such actions as are necessary to remove from such site any radioactive material placed on such site as a result of testing and evaluation activities conducted under this section. Such requirement may be waived if the Secretary, with the concurrence of the Commission, finds that short-term testing and evaluation activities using radioactive material will not endanger the public health and safety.

RESEARCH AND DEVELOPMENT ON SPENT NUCLEAR FUEL

42 USC 10198.

SEC. 218. (a) DEMONSTRATION AND COOPERATIVE PROGRAMS.—The Secretary shall establish a demonstration program, in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission. Not later than 1 year after the date of the enactment of this Act, the Secretary shall select at least 1, but not more than 3, sites evaluated under section 214 at such power reactors. In selecting such site or sites, the Secretary shall give preference to civilian nuclear power reactors that will soon have a shortage of interim storage capacity for spent nuclear fuel. Subject to reaching agreement as provided in subsection (b), the Secretary shall undertake activities to assist such power reactors with demonstration projects at such sites, which may use one of the following types of alternate storage technologies: spent nuclear fuel storage casks, caissons, or silos. The Secretary shall also undertake a cooperative program with civilian nuclear power reactors to encourage the development of the technology for spent nuclear fuel rod consolidation in existing power reactor water storage basins.

(b) COOPERATIVE AGREEMENTS.—To carry out the programs described in subsection (a), the Secretary shall enter into a cooperative agreement with each utility involved that specifies, at a minimum, that—

(1) such utility shall select the alternate storage technique to be used, make the land and spent nuclear fuel available for the dry storage demonstration, submit and provide site-specific documentation for a license application to the Commission, obtain a license relating to the facility involved, construct such facility, operate such facility after licensing, pay the costs required to construct such facility, and pay all costs associated with the operation and maintenance of such facility;

(2) the Secretary shall provide, on a cost-sharing basis, consultative and technical assistance, including design support

and generic licensing documentation, to assist such utility in obtaining the construction authorization and appropriate license from the Commission; and

(3) the Secretary shall provide generic research and development of alternative spent nuclear fuel storage techniques to enhance utility-provided, at-reactor storage capabilities, if authorized in any other provision of this Act or in any other provision of law.

(c) Dry Storage Research and Development.—(1) The consultative and technical assistance referred to in subsection (b)(2) may include, but shall not be limited to, the establishment of a research and development program for the dry storage of not more than 300 metric tons of spent nuclear fuel at facilities owned by the Federal Government on the date of the enactment of this Act. The purpose of such program shall be to collect necessary data to assist the utilities involved in the licensing process.

(2) To the extent available, and consistent with the provisions of section 135, the Secretary shall provide spent nuclear fuel for the research and development program authorized in this subsection from spent nuclear fuel received by the Secretary for storage under section 135. Such spent nuclear fuel shall not be subject to the provisions of section 135(e).

(d) Funding.—The total contribution from the Secretary from Federal funds and the use of Federal facilities or services shall not exceed 25 percent of the total costs of the demonstration program authorized in subsection (a), as estimated by the Secretary. All remaining costs of such program shall be paid by the utilities involved or shall be provided by the Secretary from the Interim Storage Fund established in section 136.

(e) Relation to Spent Nuclear Fuel Storage Program.—The spent nuclear fuel storage program authorized in section 135 shall not be construed to authorize the use of research development or demonstration facilities owned by the Department unless—

Report to congressional committees.

(1) a period of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) has passed after the Secretary has transmitted to the Committee on Science and Technology of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a written report containing a full and complete statement concerning (A) the facility involved; (B) any necessary modifications; (C) the cost thereof; and (D) the impact on the authorized research and development program; or

(2) each such committee, before the expiration of such period, has transmitted to the Secretary a written notice to the effect that such committee has no objection to the proposed use of such facility.

PAYMENTS TO STATES AND INDIAN TRIBES

42 USC 10199.

Sec. 219. (a) Payments.—Subject to subsection (b), the Secretary shall make payments to each State or affected Indian tribe that has entered into an agreement pursuant to section 215. The Secretary shall pay an amount equal to 100 percent of the expenses incurred by such State or Indian tribe in engaging in any monitoring, testing, evaluation, or other consultation and cooperation activity under section 215 with respect to any site. The amount paid by the

Secretary under this paragraph shall not exceed $3,000,000 per year from the date on which the site involved was identified to the date on which the decontamination and decommission of the facility is complete pursuant to section 217(h). Any such payment may only be made to a State in which a potential site for a test and evaluation facility has been identified under section 213, or to an affected Indian tribe where the potential site has been identified under such section.

(b) LIMITATION.—The Secretary shall make any payment to a State under subsection (a) only if such State agrees to provide, to each unit of general local government within the jurisdictional boundaries of which the potential site or effectively selected site involved is located, at least one-tenth of the payments made by the Secretary to such State under such subsection. A State or affected Indian tribe receiving any payment under subsection (a) shall otherwise have discretion to use such payment for whatever purpose it deems necessary, including the State or tribal activities pursuant to agreements entered into in accordance with section 215. Annual payments shall be prorated on a 365-day basis to the specified dates.

STUDY OF RESEARCH AND DEVELOPMENT NEEDS FOR MONITORED RETRIEVABLE STORAGE PROPOSAL

Report to Congress.
42 USC 10200.

SEC. 220. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit to the Congress a report describing the research and development activities the Secretary considers necessary to develop the proposal required in section 141(b) with respect to a monitored retrievable storage facility.

JUDICIAL REVIEW

42 USC 10201.

SEC. 221. Judicial review of research and development activities under this title shall be in accordance with the provisions of section 119.

Ante, p. 2227.
42 USC 10202.

SEC. 222. RESEARCH ON ALTERNATIVES FOR THE PERMANENT DISPOSAL OF HIGH-LEVEL RADIOACTIVE WASTE.—The Secretary shall continue and accelerate a program of research, development, and investigation of alternative means and technologies for the permanent disposal of high-level radioactive waste from civilian nuclear activities and Federal research and development activities except that funding shall be made from amounts appropriated to the Secretary for purposes of carrying out this section. Such program shall include examination of various waste disposal options.

TECHNICAL ASSISTANCE TO NON-NUCLEAR WEAPON STATES IN THE FIELD OF SPENT FUEL STORAGE AND DISPOSAL

42 USC 10203.

SEC. 223. (a) It shall be the policy of the United States to cooperate with and provide technical assistance to non-nuclear weapon states in the field of spent fuel storage and disposal.

Joint notice, publication in Federal Register.

(b)(1) Within 90 days of enactment of this Act, the Secretary and the Commission shall publish a joint notice in the Federal Register stating that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of at-reactor spent fuel storage; away-from-reactor spent fuel storage; monitored, retrievable spent fuel storage; geologic disposal of spent fuel; and the health, safety, and environmental regulation of such activities. The notice shall summarize the resources that can be made available for international cooperation and assistance in these fields through existing programs of the Department and the Commission, including the availability of: (i) data from past or ongoing research and development projects; (ii) consultations with expert Department or Commission personnel or contractors; and (iii) liaison with private business entities and organizations working in these fields.

(2) The joint notice described in the preceding subparagraph shall be updated and reissued annually for 5 succeeding years. Joint notice, reissuance.

(c) Following publication of the annual joint notice referred to in paragraph (2), the Secretary of State shall inform the governments of non-nuclear weapon states and, as feasible, the organizations operating nuclear powerplants in such states, that the United States is prepared to cooperate with and provide technical assistance to non-nuclear weapon states in the fields of spent fuel storage and disposal, as set forth in the joint notice. The Secretary of State shall also solicit expressions of interest from non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators concerning their participation in expanded United States cooperation and technical assistance programs in these fields. The Secretary of State shall transmit any such expressions of interest to the Department and the Commission. Expressions of interest.

(d) With his budget presentation materials for the Department and the Commission for fiscal years 1984 through 1989, the President shall include funding requests for an expanded program of cooperation and technical assistance with non-nuclear weapon states in the fields of spent fuel storage and disposal as appropriate in light of expressions of interest in such cooperation and assistance on the part of non-nuclear weapon state governments and non-nuclear weapon state nuclear power reactor operators.

(e) For the purposes of this subsection, the term "non-nuclear weapon state" shall have the same meaning as that set forth in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons (21 U.S.C. 438). "Non-nuclear weapon state."

(f) Nothing in this subsection shall authorize the Department or the Commission to take any action not authorized under existing law.

TITLE III—OTHER PROVISIONS RELATING TO RADIOACTIVE WASTE

MISSION PLAN

SEC. 301. (a) CONTENTS OF MISSION PLAN.—The Secretary shall prepare a comprehensive report, to be known as the mission plan, which shall provide an informational basis sufficient to permit informed decisions to be made in carrying out the repository program and the research, development, and demonstration programs required under this Act. The mission plan shall include— 42 USC 10221.

(1) an identification of the primary scientific, engineering, and technical information, including any necessary demonstration of engineering or systems integration, with respect to the siting and construction of a test and evaluation facility and repositories;

(2) an identification of any information described in paragraph (1) that is not available because of any unresolved scien-

tific, engineering, or technical questions, or undemonstrated engineering or systems integration, a schedule including specific major milestones for the research, development, and technology demonstration program required under this Act and any additional activities to be undertaken to provide such information, a schedule for the activities necessary to achieve important programmatic milestones, and an estimate of the costs required to carry out such research, development, and demonstration programs;

(3) an evaluation of financial, political, legal, or institutional problems that may impede the implementation of this Act, the plans of the Secretary to resolve such problems, and recommendations for any necessary legislation to resolve such problems;

(4) any comments of the Secretary with respect to the purpose and program of the test and evaluation facility;

(5) a discussion of the significant results of research and development programs conducted and the implications for each of the different geologic media under consideration for the siting of repositories, and, on the basis of such information, a comparison of the advantages and disadvantages associated with the use of such media for repository sites;

Ante, p. 2208.

(6) the guidelines issued under section 112(a);

(7) a description of known sites at which site characterization activities should be undertaken, a description of such siting characterization activities, including the extent of planned excavations, plans for onsite testing with radioactive or nonradioactive material, plans for any investigations activities which may affect the capability of any such site to isolate high-level radioactive waste or spent nuclear fuel, plans to control any adverse, safety-related impacts from such site characterization activities, and plans for the decontamination and decommissioning of such site if it is determined unsuitable for licensing as a repository;

(8) an identification of the process for solidifying high-level radioactive waste or packaging spent nuclear fuel, including a summary and analysis of the data to support the selection of the solidification process and packaging techniques, an analysis of the requirements for the number of solidification packaging facilities needed, a description of the state of the art for the materials proposed to be used in packaging such waste or spent fuel and the availability of such materials including impacts on strategic supplies and any requirements for new or reactivated facilities to produce any such materials needed, and a description of a plan, and the schedule for implementing such plan, for an aggressive research and development program to provide when needed a high-integrity disposal package at a reasonable price;

(9) an estimate of (A) the total repository capacity required to safely accommodate the disposal of all high-level radioactive waste and spent nuclear fuel expected to be generated through December 31, 2020, in the event that no commercial reprocessing of spent nuclear fuel occurs, as well as the repository capacity that will be required if such reprocessing does occur; (B) the number and type of repositories required to be constructed to provide such disposal capacity; (C) a schedule for the construction of such repositories; and (D) an estimate of the period during which each repository listed in such schedule will

be accepting high-level radioactive waste or spent nuclear fuel for disposal;

(10) an estimate, on an annual basis, of the costs required (A) to construct and operate the repositories anticipated to be needed under paragraph (9) based on each of the assumptions referred to in such paragraph; (B) to construct and operate a test and evaluation facility, or any other facilities, other than repositories described in subparagraph (A), determined to be necessary; and (C) to carry out any other activities under this Act; and

(11) an identification of the possible adverse economic and other impacts to the State or Indian tribe involved that may arise from the development of a test and evaluation facility or repository at a site.

(b) SUBMISSION OF MISSION PLAN.—(1) Not later than 15 months after the date of the enactment of this Act, the Secretary shall submit a draft mission plan to the States, the affected Indian tribes, the Commission, and other Government agencies as the Secretary deems appropriate for their comments.

Publication in Federal Register. Public inspection and agency comments.

(2) In preparing any comments on the mission plan, such agencies shall specify with precision any objections that they may have. Upon submission of the mission plan to such agencies, the Secretary shall publish a notice in the Federal Register of the submission of the mission plan and of its availability for public inspection, and, upon receipt of any comments of such agencies respecting the mission plan, the Secretary shall publish a notice in the Federal Register of the receipt of comments and of the availability of the comments for public inspection. If the Secretary does not revise the mission plan to meet objections specified in such comments, the Secretary shall publish in the Federal Register a detailed statement for not so revising the mission plan.

Plan submittal to congressional committees.

(3) The Secretary, after reviewing any other comments made by such agencies and revising the mission plan to the extent that the Secretary may consider to be appropriate, shall submit the mission plan to the appropriate committees of the Congress not later than 17 months after the date of the enactment of this Act. The mission plan shall be used by the Secretary at the end of the first period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than 3 calendar days to a day certain) following receipt of the mission plan by the Congress.

NUCLEAR WASTE FUND

42 USC 10222.

SEC. 302. (a) CONTRACTS.—(1) In the performance of his functions under this Act, the Secretary is authorized to enter into contracts with any person who generates or holds title to high-level radioactive waste, or spent nuclear fuel, of domestic origin for the acceptance of title, subsequent transportation, and disposal of such waste or spent fuel. Such contracts shall provide for payment to the Secretary of fees pursuant to paragraphs (2) and (3) sufficient to offset expenditures described in subsection (d).

Fees.

(2) For electricity generated by a civilian nuclear power reactor and sold on or after the date 90 days after the date of enactment of this Act, the fee under paragraph (1) shall be equal to 1.0 mil per kilowatt-hour.

Fees.

(3) For spent nuclear fuel, or solidified high-level radioactive waste derived from spent nuclear fuel, which fuel was used to generate electricity in a civilian nuclear power reactor prior to the application of the fee under paragraph (2) to such reactor, the Secretary shall, not later than 90 days after the date of enactment of this Act, establish a 1 time fee per kilogram of heavy metal in spent nuclear fuel, or in solidified high-level radioactive waste. Such fee shall be in an amount equivalent to an average charge of 1.0 mil per kilowatt-hour for electricity generated by such spent nuclear fuel, or such solidified high-level waste derived therefrom, to be collected from any person delivering such spent nuclear fuel or high-level waste, pursuant to section 123, to the Federal Government. Such fee shall be paid to the Treasury of the United States and shall be deposited in the separate fund established by subsection (c) 126(b). In paying such a fee, the person delivering spent fuel, or solidified high-level radicactive wastes derived therefrom, to the Federal Government shall have no further financial obligation to the Federal Government for the long-term storage and permanent disposal of such spent fuel, or the solidified high-level radioactive waste derived therefrom.

Ante, p. 2229.

Collection and payment procedures. Review.

(4) Not later than 180 days after the date of enactment of this Act, the Secretary shall establish procedures for the collection and payment of the fees established by paragraph (2) and paragraph (3). The Secretary shall annually review the amount of the fees established by paragraphs (2) and (3) above to evaluate whether collection of the fee will provide sufficient revenues to offset the costs as defined in subsection (d) herein. In the event the Secretary determines that either insufficient or excess revenues are being collected, in order to recover the costs incurred by the Federal Government that are specified in subsection (d), the Secretary shall propose an adjustment to the fee to insure full cost recovery. The Secretary shall immediately transmit this proposal for such an adjustment to Congress. The adjusted fee proposed by the Secretary shall be effective after a period of 90 days of continuous session have elapsed following the receipt of such transmittal unless during such 90-day period either House of Congress adopts a resolution disapproving the Secretary's proposed adjustment in accordance with the procedures set forth for congressional review of an energy action under section 551 of the Energy Policy and Conservation Act.

Transmittal to Congress.

42 USC 6421.

(5) Contracts entered into under this section shall provide that—

(A) following commencement of operation of a repository, the Secretary shall take title to the high-level radioactive waste or spent nuclear fuel involved as expeditiously as practicable upon the request of the generator or owner of such waste or spent fuel; and

(B) in return for the payment of fees established by this section, the Secretary, beginning not later than January 31, 1998, will dispose of the high-level radioactive waste or spent nuclear fuel involved as provided in this subtitle.

Disposal services, terms and conditions.

(6) The Secretary shall establish in writing criteria setting forth the terms and conditions under which such disposal services shall be made available.

License renewal or issuance.

(b) ADVANCE CONTRACTING REQUIREMENT.—(1)(A) The Commission shall not issue or renew a license to any person to use a utilization or production facility under the authority of section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) unless—

(i) such person has entered into a contract with the Secretary under this section; or

(ii) the Secretary affirms in writing that such person is actively and in good faith negotiating with the Secretary for a contract under this section.

(B) The Commission, as it deems necessary or appropriate, may require as a precondition to the issuance or renewal of a license under section 103 or 104 of the Atomic Energy Act of 1954 (42 U.S.C. 2133, 2134) that the applicant for such license shall have entered into an agreement with the Secretary for the disposal of high-level radioactive waste and spent nuclear fuel that may result from the use of such license.

(2) Except as provided in paragraph (1), no spent nuclear fuel or high-level radioactive waste generated or owned by any person (other than a department of the United States referred to in section 101 or 102 of title 5, United States Code) may be disposed of by the Secretary in any repository constructed under this Act unless the generator or owner of such spent fuel or waste has entered into a contract with the Secretary under this section by not later than—

(A) June 30, 1983; or

(B) the date on which such generator or owner commences generation of, or takes title to, such spent fuel or waste;

whichever occurs later.

(3) The rights and duties of a party to a contract entered into under this section may be assignable with transfer of title to the spent nuclear fuel or high-level radioactive waste involved.

Disposal of radioactive waste or spent nuclear fuel.

(4) No high-level radioactive waste or spent nuclear fuel generated or owned by any department of the United States referred to in section 101 or 102 of title 5, United States Code, may be disposed of by the Secretary in any repository constructed under this Act unless such department transfers to the Secretary, for deposit in the Nuclear Waste Fund, amounts equivalent to the fees that would be paid to the Secretary under the contracts referred to in this section if such waste or spent fuel were generated by any other person.

(c) ESTABLISHMENT OF NUCLEAR WASTE FUND.—There hereby is established in the Treasury of the United States a separate fund, to be known as the Nuclear Waste Fund. The Waste Fund shall consist of—

(1) all receipts, proceeds, and recoveries realized by the Secretary under subsections (a), (b), and (e), which shall be deposited in the Waste Fund immediately upon their realization;

(2) any appropriations made by the Congress to the Waste Fund; and

(3) any unexpended balances available on the date of the enactment of this Act for functions or activities necessary or incident to the disposal of civilian high-level radioactive waste or civilian spent nuclear fuel, which shall automatically be transferred to the Waste Fund on such date.

(d) USE OF WASTE FUND.—The Secretary may make expenditures from the Waste Fund, subject to subsection (e), only for purposes of radioactive waste disposal activities under titles I and II, including—

Ante, pp. 2206, 2245.

(1) the identification, development, licensing, construction, operation, decommissioning, and post-decommissioning maintenance and monitoring of any repository, monitored, retrievable storage facility or test and evaluation facility constructed under this Act;

(2) the conducting of nongeneric research, development, and demonstration activities under this Act;

(3) the administrative cost of the radioactive waste disposal program;

(4) any costs that may be incurred by the Secretary in connection with the transportation, treating, or packaging of spent nuclear fuel or high-level radioactive waste to be disposed of in a repository, to be stored in a monitored, retrievable storage site or to be used in a test and evaluation facility;

(5) the costs associated with acquisition, design, modification, replacement, operation, and construction of facilities at a repository site, a monitored, retrievable storage site or a test and evaluation facility site and necessary or incident to such repository, monitored, retrievable storage facility or test and evaluation facility; and

(6) the provision of assistance to States, units of general local government, and Indian tribes under sections 116, 118, and 219. *Ante*, pp. 2220, 2225, 2253.

No amount may be expended by the Secretary under this subtitle for the construction or expansion of any facility unless such construction or expansion is expressly authorized by this or subsequent legislation. The Secretary hereby is authorized to construct one repository and one test and evaluation facility.

Report to Congress.

(e) Administration of Waste Fund.—(1) The Secretary of the Treasury shall hold the Waste Fund and, after consultation with the Secretary, annually report to the Congress on the financial condition and operations of the Waste Fund during the preceding fiscal year.

Budget submittal.

(2) The Secretary shall submit the budget of the Waste Fund to the Office of Management and Budget triennially along with the budget of the Department of Energy submitted at such time in accordance with chapter 11 of title 31, United States Code. *Ante*, p. 907. The budget of the Waste Fund shall consist of the estimates made by the Secretary of expenditures from the Waste Fund and other relevant financial matters for the succeeding 3 fiscal years, and shall be included in the Budget of the United States Government. The Secretary may make expenditures from the Waste Fund, subject to appropriations which shall remain available until expended. Appropriations shall be subject to triennial authorization.

(3) If the Secretary determines that the Waste Fund contains at any time amounts in excess of current needs, the Secretary may request the Secretary of the Treasury to invest such amounts, or any portion of such amounts as the Secretary determines to be appropriate, in obligations of the United States—

(A) having maturities determined by the Secretary of the Treasury to be appropriate to the needs of the Waste Fund; and

(B) bearing interest at rates determined to be appropriate by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturities of such investments, except that the interest rate on such investments shall not exceed the average interest rate applicable to existing borrowings.

(4) Receipts, proceeds, and recoveries realized by the Secretary under this section, and expenditures of amounts from the Waste Fund, shall be exempt from annual apportionment under the provisions of subchapter II of chapter 15 of title 31, United States Code. *Ante*, p. 927.

(5) If at any time the moneys available in the Waste Fund are insufficient to enable the Secretary to discharge his responsibilities under this subtitle, the Secretary shall issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Secretary and the Secretary of the Treasury. The total of such obligations shall not exceed amounts provided in appropriation Acts. Redemption of such obligations shall be made by the Secretary from moneys available in the Waste Fund. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury, which shall be not less than a rate determined by taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such Act are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States. *Ante*, p. 937.

(6) Any appropriations made available to the Waste Fund for any purpose described in subsection (d) shall be repaid into the general fund of the Treasury, together with interest from the date of availability of the appropriations until the date of repayment. Such interest shall be paid on the cumulative amount of appropriations available to the Waste Fund, less the average undisbursed cash balance in the Waste Fund account during the fiscal year involved. The rate of such interest shall be determined by the Secretary of the Treasury taking into consideration the average market yield during the month preceding each fiscal year on outstanding marketable obligations of the United States of comparable maturity. Interest payments may be deferred with the approval of the Secretary of the Treasury, but any interest payments so deferred shall themselves bear interest.

Interest payments.

Deferral.

ALTERNATIVE MEANS OF FINANCING

Study.
42 USC 10223.

Sec. 303. The Secretary shall undertake a study with respect to alternative approaches to managing the construction and operation of all civilian radioactive waste management facilities, including the feasibility of establishing a private corporation for such purposes. In conducting such study, the Secretary shall consult with the Director of the Office of Management and Budget, the Chairman of the Commission, and such other Federal agency representatives as may be appropriate. Such study shall be completed, and a report containing the results of such study shall be submitted to the Congress, within 1 year after the date of the enactment of this Act.

Report to Congress.

OFFICE OF CIVILIAN RADIOACTIVE WASTE MANAGEMENT

42 USC 10224.

Sec. 304. (a) **Establishment.**—There hereby is established within the Department of Energy an Office of Civilian Radioactive Waste

Management. The Office shall be headed by a Director, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be compensated at the rate payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(b) FUNCTIONS OF DIRECTOR.—The Director of the Office shall be responsible for carrying out the functions of the Secretary under this Act, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Secretary.

(c) ANNUAL REPORT TO CONGRESS.—The Director of the Office shall annually prepare and submit to the Congress a comprehensive report on the activities and expenditures of the Office.

(d) ANNUAL AUDIT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall annually make an audit of the Office, in accordance with such regulations as the Comptroller General may prescribe. The Comptroller General shall have access to such books, records, accounts, and other materials of the Office as the Comptroller General determines to be necessary for the preparation of such audit. The Comptroller General shall submit to the Congress a report on the results of each audit conducted under this section.

Report to Congress

LOCATION OF TEST AND EVALUATION FACILITY

42 USC 10225.

SEC. 305. (a) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Congress a report setting forth whether the Secretary plans to locate the test and evaluation facility at the site of a repository.

(b) PROCEDURES.—(1) If the test and evaluation facility is to be located at any candidate site or repository site (A) site selection and development of such facility shall be conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of repositories; and (B) the Secretary may not commence construction of any surface facility for such test and evaluation facility prior to issuance by the Commission of a construction authorization for a repository at the site involved.

Ante, p. 2206.

(2) No test and evaluation facility may be converted into a repository unless site selection and development of such facility was conducted in accordance with the procedures and requirements established in title I with respect to the site selection and development of respositories.

(3) The Secretary may not commence construction of a test and evaluation facility at a candidate site or site recommended as the location for a repository prior to the date on which the designation of such site is effective under section 115.

Ante, p. 2217.

NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION

Regulations or guidance.
42 USC 10226.

SEC. 306. NUCLEAR REGULATORY COMMISSION TRAINING AUTHORIZATION.—The Nuclear Regulatory Commission is authorized and directed to promulgate regulations, or other appropriate Commission regulatory guidance, for the training and qualifications of civilian nuclear powerplant operators, supervisors, technicians and other appropriate operating personnel. Such regulations or guidance shall establish simulator training requirements for applicants for civilian nuclear powerplant operator licenses and for operator requalification programs; requirements governing NRC administration of requalification examinations; requirements for operating tests at civilian nuclear powerplant simulators, and instructional requirements for civilian nuclear powerplant licensee personnel training programs. Such regulations or other regulatory guidance shall be promulgated by the Commission within the 12-month period following enactment of this Act, and the Commission within the 12-month period following enactment of this Act shall submit a report to Congress setting forth the actions the Commission has taken with respect to fulfilling its obligations under this section.

Report to Congress.

Approved January 7, 1983.

LEGISLATIVE HISTORY—H.R. 3809:

HOUSE REPORT No. 97-491 pt.1 (Comm. on Interior and Insular Affairs) and pt. 2 (Comm. on Armed Services).

CONGRESSIONAL RECORD, Vol. 128 (1982):

Sept. 30, Nov. 29, 30, Dec. 2, considered and passed House.

Dec. 20, considered and passed Senate, amended; House agreed to Senate amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 19, No. 1 (1983):

Jan. 7, Presidential statement.

Public Law 97-464
97th Congress

An Act

To amend the Earthquake Hazards Reduction Act of 1977 to extend authorizations of appropriations, and for other purposes.

Jan. 12, 1983
[S. 2273]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Earthquake Hazard Reduction Act of 1971, amendment.

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

42 USC 7706.

Sec. 101. (a) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 is amended by adding at the end thereof the following new paragraph:

Appropriation authorizations. 42 USC 7704, 7705.

"(4) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $1,281,000 for the fiscal year ending September 30, 1983.".

(b) Section 7(b) of such Act is amended by striking out "and" after "1981;", and by inserting "; and $31,843,000 for the fiscal year ending September 30, 1983" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1981;", and by inserting "; and $25,000,000 for the fiscal year ending September 30, 1983" before the period at the end thereof.

(d) Section 7(d) of such Act is amended by striking out "and" after "1981;", and by inserting "; and $475,000 for the fiscal year ending September 30, 1983" before the period at the end thereof.

(e) Section 7(e) of such Act is amended by striking out "the fiscal year ending September 30, 1982" and inserting in lieu thereof "each of the fiscal years ending September 30, 1982 and September 30, 1983".

TITLE II—MULTIHAZARD RESEARCH, PLANNING, AND MITIGATION

Appropriation authorization. 50 USC app. 2251 note.

Sec. 201. Section 302 of Public Law 96-472 is amended by adding at the end thereof the following new subsection:

"(c) For the fiscal year ending September 30, 1983, there are authorized to be appropriated to the Director—

"(1) $2,774,000 to carry out section 301, which amount shall include—

"(A) not less than $300,000 to carry out the purposes of paragraphs (1) through (6) of such section;

"(B) such sums as may be necessary, but in any case not less than $939,000, for use by the United States Fire Administration in carrying out paragraph (7) of such section; and

"(C) not less than $1,535,000 to carry out paragraph (8) of such section with respect to those large California earthquakes which were identified by the National Security Council's Ad Hoc Committee on Assessment of Consequences and Preparations for a Major California Earth-

quake and with respect to other high seismic risk areas in the United States; and

"(2) such further sums as may be necessary for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.".

Approved January 12, 1983.

LEGISLATIVE HISTORY—S. 2273 (H.R. 6272):

HOUSE REPORTS: No. 97-535, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science and Technology) both accompanying H.R. 6272.
SENATE REPORT No. 97-336 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 128 (1982):
  Apr. 29, considered and passed Senate.
  Sept. 14, H.R. 6272, considered and passed House; S. 2273, amended, passed in lieu.
  Oct. 1, Senate agreed to House amendments with amendments; House concurred in certain Senate amendments in another with an amendment.
  Dec. 16, Senate concurred in House amendment.

Public Law 98-52
98th Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, construction of facilities, and research and program management, and for other purposes.

July 15, 1983
[H.R. 2065]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Aeronautics and Space Administration Authorization Act, 1984.

TITLE I

Sec. 101. That there is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1983:

Research and development.

(a) For "Research and development," for the following programs:

(1) Space transportation capability development, $2,009,400,000;

(2) Space transportation operations, $1,545,600,000;

(3) Physics and astronomy, $562,100,000;

(4) Planetary exploration, $220,400,000;

(5) Life sciences, $59,000,000;

(6) Space applications, $313,000,000;

(7) Technology utilization, $10,000,000;

(8) Aeronautical research and technology, $320,300,000;

(9) Space research and technology, $143,000,000; and

(10) Tracking and data systems, $700,200,000; and

Facilities construction.

(b) For "Construction of facilities," including land acquisition, as follows:

(1) Space Shuttle facilities at various locations as follows:

(A) Modifications for additional chillers for mission control center, Lyndon B. Johnson Space Center, $2,300,000; and

(B) Modifications to mobile launch platform, John F. Kennedy Space Center, $27,300,000; and

(C) Modification of manufacturing and final assembly facilities for external tanks, Michoud Assembly Facility, $11,700,000;

(2) Space Shuttle payload facilities at various locations as follows:

(A) Construction of cargo hazardous servicing facility, John F. Kennedy Space Center, $9,000,000; and

(B) Modifications to spacecraft assembly and encapsulation facility for cargo processing, John F. Kennedy Space Center, $3,000,000;

(3) Construction of frequency standards laboratory, Jet Propulsion Laboratory, $2,700,000;

(4) Modifications to space flight operations facility, Jet Propulsion Laboratory, $1,600,000;

(5) Construction of fluid mechanics laboratory, Ames Research Center, $3,900,000;

(6) Construction of aeronautical tracking facility, Hugh L. Dryden Flight Research Facility, $800,000;

(7) Modifications and addition for composite materials laboratory, Langley Research Center, $5,100,000;

(8) Modifications to 30- by 60-foot wind tunnel, Langley Research Center, $4,400,000;

(9) Modifications for small engine component testing facility, Lewis Research Center, $7,000,000;

(10) Modifications to icing research tunnel, Lewis Research Center, $3,600,000;

(11) Relocation of 26-meter STDN antenna, Spain, $1,700,000;

(12) Repair of facilities at various locations, not in excess of $500,000 per project, $19,500,000;

(13) Rehabilitation and modification of facilities at various locations, not in excess of $500,000 per project, $24,500,000;

(14) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $250,000 per project, $4,800,000; and

(15) Facility planning and design not otherwise provided for, $9,200,000.

Research and program management.

(c) For "Research and program management," $1,242,500,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Research and development.

(d) Notwithstanding the provisions of subsection 101(g), appropriations hereby authorized for "Research and development" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $250,000, unless the Administrator or his designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

(e) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(f) Appropriations made pursuant to subsection 101(c) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and his determination shall be final and conclusive upon the accounting officers of the Government.

Scientific consultations or extraordinary expenses.

(g) Of the funds appropriated pursuant to subsections 101(a) and 101(c), not in excess of $75,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection 101(a), not in excess of $250,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (14), inclusive, of subsection 101(b)—

(1) in the discretion of the Administrator or his designee, may be varied upward 10 percent, or

(2) following a report by the Administrator or his designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 percent,

Report to congressional committees.

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one half of 1 percent of the funds appropriated pursuant to subsection 101(a) hereof may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of the funds appropriated pursuant to subsection 101(b) hereof (other than funds appropriated pursuant to paragraph (15) of such subsection) shall be available for expenditure to construct, expand, or modify laboratories and other installations at any location (including locations specified in subsection 101(b)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments and (2) he determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless (A) a period of 30 days has passed after the Administrator or his designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary in the national interest, or (B) each such committee before the expiration of such period has transmitted to

Transfer of funds.

Report to congressional committees.

the Administrator written notice to the effect that such committee has no objection to the proposed action.

Restrictions.

SEC. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation,

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by subsections 101(a) and 101(c), and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to or requested of either such committee,

Notification to congressional committees.

unless (A) a period of 30 days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the proposed action.

Federal research funds, geographical distribution.
42 USC 2459 note.

SEC. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 106. The authorization for space transportation capability development includes provision for the production activities necessary to provide for a fleet of Space Shuttle orbiters, including the production of structural and component spares, necessary to ensure confident and cost-effective operation of the orbiter fleet, as well as provisions for maintaining production readiness for a fifth orbiter vehicle.

SEC. 107. Title III of the National Aeronautics and Space Act of 1958, as amended, is amended by adding at the end thereof the following new section:

"MISUSE OF AGENCY NAME AND INITIALS

42 USC 2459b.
42 USC 2457.

"SEC. 310. (a) No person (as defined by section 305) may (1) knowingly use the words 'National Aeronautics and Space Administration' or the letters 'NASA', or any combination, variation, or colorable imitation of those words or letters either alone or in combination with other words or letters, as a firm or business name in a manner reasonably calculated to convey the impression that such firm or business has some connection with, endorsement of, or authorization from, the National Aeronautics and Space Administration which does not, in fact, exist; or (2) knowingly use those words or letters or any combination, variation, or colorable imitation thereof either alone or in combination with other words or letters in connection with any product or service being offered or made available to the public in a manner reasonably calculated to convey the impression that such product or service has the authorization, support, sponsorship, or endorsement of, or the development, use, or manufacture by or on behalf of the National Aeronautics and Space Administration which does not, in fact, exist.

"(b) Whenever it appears to the Attorney General that any person is engaged in an act or practice which constitutes or will constitute conduct prohibited by subsection (a), the Attorney General may initiate a civil proceeding in a district court of the United States to enjoin such act or practice.". Violations.

SEC. 108. Section 103(1) of the National Aeronautics and Space Act of 1958, as amended, is amended, by striking out "and (C)" and inserting in lieu thereof "(C) the operation of a space transportation system including the Space Shuttle, upper stages, space platforms, and related equipment, and (D)". 42 USC 2452.

SEC. 109. Notwithstanding any other provision of law, there shall be transferred to NASA three government-owned tracts of NASA used land and improvements thereon (totalling approximately 33.5 acres) at Ellington Air Force Base, Texas, without any transfer of funds therefor. Transfer of land.

SEC. 110. Any decision or proposed policy by the President or the National Aeronautics and Space Administration to commercialize some or all of the existing expendable launch vehicle technologies and associated facilities and equipment shall be presented to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives for their review. No such decision or policy shall be implemented unless (A) a period of 30 days has passed after the receipt by each such committee of a full and complete statement of the decision or proposed policy and the facts and circumstances relied upon in support of such decision or proposed policy, or (B) each such committee before the expiration of such period has transmitted to the Administrator written notice to the effect that such committee has no objection to the decision or proposed policy. 42 USC 2466.

SEC. 111. This Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1984" Short title.

TITLE II

SEC. 201. There is authorized to be appropriated $29,336,000 for the fiscal year 1984 for the purpose of operating the land remote sensing satellite system, including provision for storage of a backup satellite.

SEC. 202. Notwithstanding title II of the National Aeronautics and Space Administration Authorization Act, 1983, the Secretary of Commerce shall not transfer the ownership or management of any civil land, meteorological, or ocean remote sensing space satellite system and associated ground system equipment unless, in addition to any other requirement of law— Transference of civil land, meteorological, or ocean remote sensing space satellite system. 15 USC 1517 note. 96 Stat. 1601.

(1) the Secretary of Commerce or his designee has presented, in writing, to the Speaker of the House of Representatives and the President of the Senate, and to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, a comprehensive statement of recommended policies, procedures, conditions, and limitations to which any transfer should be subject; and

(2) the Congress thereafter enacts a law which contains such policies, procedures, conditions, or limitations (or a combination thereof) as it deems appropriate for any such transfer.

Approved July 15, 1983.

LEGISLATIVE HISTORY—H.R. 2065 (S. 1096):

HOUSE REPORT No. 98-65 (Comm. on Science and Technology).
SENATE REPORT No. 98-108 accompanying S. 1096 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 129 (1983):
  Apr. 26, considered and passed House.
  June 15, S. 1096 considered and passed Senate.
  June 28, H.R. 2065 considered and passed Senate, amended.
  June 29, House concurred in Senate amendments.

Public Law 98-241
98th Congress

An Act

To authorize appropriations for the Earthquake Hazards Reduction Act of 1977 and the Federal Fire Prevention and Control Act of 1974 for fiscal year 1984 and fiscal year 1985, and for other purposes.

Mar. 22, 1984
[S. 820]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—EARTHQUAKE HAZARDS REDUCTION PROGRAM

SEC. 101. (a) Section 7(a) of the Earthquake Hazards Reduction Act of 1977 is amended by adding at the end thereof the following new paragraph: 96 Stat. 2533. 42 USC 7706.

"(5) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, for the fiscal year ending September 30, 1984, $3,705,000, and for the fiscal year ending September 30, 1985, $6,096,000.". 42 USC 7704, 7705.

(b) Section 7(b) of such Act is amended by striking out "and" after "1982;" and by inserting "; $35,524,000 for the fiscal year ending September 30, 1984, and $37,300,200 for the fiscal year ending September 30, 1985" before the period at the end thereof.

(c) Section 7(c) of such Act is amended by striking out "and" after "1982;" and by inserting "; $25,800,000 for the fiscal year ending September 30, 1984; and $28,665,000 for the fiscal year ending September 30, 1985" before the period at the end thereof.

(d) Section 7(d) of such Act is amended by striking out "and" after "1982;" and by inserting "; $475,000 for the fiscal year ending September 30, 1984; and $498,750 for the fiscal year ending September 30, 1985" before the period at the end thereof.

(e) Section 7(e) of such Act is amended by striking out "1982 and" and by inserting in lieu thereof "1982," and by inserting "September 30, 1984, and September 30, 1985," before "there are authorized".

TITLE II—FIRE PREVENTION AND CONTROL

SEC. 201. Section 17 of the Federal Fire Prevention and Control Act of 1974 is amended by adding at the end thereof the following: 15 USC 2216.

"(e) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, to carry out the purposes of this Act, there are authorized to be appropriated— 15 USC 2214.

"(1) $15,720,000 for the fiscal year ending September 30, 1984, and $20,983,000 for the fiscal year ending September 30, 1985; and

"(2) such further sums as may be necessary in each of the fiscal years ending September 30, 1984, and September 30, 1985, for adjustments required by law in salaries, pay, retirement, and employee benefits incurred in the conduct of activities for which funds are authorized by paragraph (1) of this subsection.

The funds authorized under this subsection shall be in addition to funds authorized in any other law for research and development at the Fire Research Center of the National Bureau of Standards."

SEC. 202. Section 15 of the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2214), is further amended by striking the words ", the Secretary of Defense," where such appears in subsections (b)(2), (c), (e)(1)(A), and (f).

Voluntarism.

SEC. 203. It is the sense of the Congress that special recognition should be made of volunteer fire companies for their contribution to the public safety, accomplished in the highest traditions of the American voluntary spirit, and offering proof that locally based, nonfederally sponsored efforts provide the American people with outstanding service.

Approved March 22, 1984.

LEGISLATIVE HISTORY—S. 820 (H.R. 2465):

HOUSE REPORTS: No. 98-99, Pts. 1 and 3 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science and Technology) all accompanying H.R. 2465.
SENATE REPORT: No. 98-42 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 129 (1983): Apr. 7, considered and passed Senate.
Vol. 130 (1984): Feb. 1, H.R. 2465 considered and passed House; S. 820, amended, passed in lieu.
Mar. 8, Senate concurred in House amendments.

Public Law 98-284
98th Congress

An Act

To extend and improve the existing program of research, development, and demonstration in the production and manufacture of guayule rubber, and to broaden such program to include other critical agricultural materials.

May 16, 1984
[H.R. 2733]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Native Latex Commercialization and Economic Development Act of 1978 (hereinafter referred to as "the Act") is amended to read as follows: "That this Act may be cited as the 'Critical Agricultural Materials Act'.". 7 USC 178 note.

Sec. 2. Section 2 of the Act is amended— 7 USC 178.

(1) by inserting "(1)" after "Sec. 2. (a)";

(2) by redesignating subsections (b) through (e) as paragraphs (2) through (5); and

(3) by striking out paragraph (5) (as so redesignated) and inserting in lieu thereof the following:

"(5) Congress further recognizes that ongoing research into the development and commercialization of native latex has been conducted by the Department of Agriculture, the Department of Commerce, the National Science Foundation, and other public as well as private and industrial research groups, and that these research efforts should be continued and expanded."; and

(4) by striking out subsection (f) and inserting in lieu thereof the following:

"(b) In addition, Congress recognizes that the development of a domestic industry or industries for the production and manufacture from native agricultural crops of products other than rubber which are of strategic and industrial importance but for which the Nation is now dependent upon foreign sources, would benefit the economy, the defense, and the general well-being of the Nation, and that additional research efforts in this area should be undertaken or continued and expanded.

"(c) It is therefore the policy of the United States to provide for the development and demonstration of economically feasible means of culturing and manufacturing Parthenium and other hydrocarbon-containing plants, along with other native agricultural crops, for the production of critical agricultural materials to benefit the Nation and promote economic development.". Hydrocarbon-containing plants.

Sec. 3. (a) Section 3(d) of the Act is amended to read as follows: 7 USC 178a.

"(d) The term 'native' means hydrocarbon-containing plants and other agricultural crops of strategic and industrial importance which may be cultured in North America, especially plants which are members of the genus Parthenium known as Guayule."; and

(b) Section 3 of the Act is further amended by striking out subsection (e).

Sec. 4. (a) Section 4(a) of the Act is amended by striking out "Guayule Research and Commercialization" and inserting in lieu thereof "Research and Development of Critical Agricultural Materials". 7 USC 178b.

7 USC 178b. (b) Section 4(b) of the Act is amended to read as follows:

"(b) The Joint Commission shall consist of the following members: Three individuals designated by the Secretary of Agriculture from among the staff of the Department of Agriculture; three individuals designated by the Secretary of Commerce from among the staff of the Department of Commerce; a representative of the Bureau of Indian Affairs of the Department of the Interior; a representative of the National Science Foundation; a representative of the Department of State; a representative of the Department of Defense; and a representative of the Federal Emergency Management Agency. Each of the members of the Joint Commission shall be an individual who, on behalf of the Department or agency which such individual represents, is engaged in the support of research, development, demonstration, and commercialization activities involving native latex and the production of other critical agricultural materials from native agricultural crops.".

(c) Section 4(c) of the Act is amended to read as follows:

"(c) The Joint Commission shall be headed by a Chairman who shall be selected by the Secretary of Agriculture from among the three individuals designated by the Secretary as members under subsection (b).".

(d) Section 4(h) of the Act is amended by striking out "rubber manufacturing and commerce" and inserting in lieu thereof "manufacturing and commerce involving rubber and other critical agricultural materials".

7 USC 178c. SEC. 5. Section 5 of the Act is amended—

(1) by striking out the first sentence and inserting in lieu thereof the following:

"(a) The Department of Agriculture shall be the lead agency in carrying out this Act.

"(b) The Secretary of Agriculture shall conduct, sponsor, promote, and coordinate basic and applied research, technology development, and technology transfer leading to effective and economical methods for large-scale culturing of plantations and the extraction of latex from Parthenium or other hydrocarbon-containing plants, and for the development of other critical agricultural materials from native agricultural crops having strategic and industrial importance.";

(2) by redesignating clauses (a) through (h) in the second sentence as paragraphs (1) through (8), respectively;

(3) by striking out paragraph (3) (as so redesignated) and inserting in lieu thereof the following:

"(3) accelerating present plant breeding, genetics, and selection programs for the purpose of improving and increasing latex yields, expanding insect and disease resistance, broadening the ranges of drought and cold resistance of the Parthenium plant, and providing a system of regional research trials for enhancing and increasing the supply of foundation seed for certified seed production;";

(4) by striking out paragraph (4) (as so redesignated) and inserting in lieu thereof the following:

"(4) establishing a system of large-scale experimental plantings (aggregating ten thousand acres or more) to provide shrub for feedstock to process in the developmental rubber processing facility described in paragraph (7);";

(5) by striking out paragraph (7) (as so redesignated) and inserting in lieu thereof the following:

"(7) accelerating the refinement of present extraction and processing technologies and future extraction technologies, including the development and construction of a developmental rubber processing facility for the extraction and production of test quantities of guayule natural rubber;";

(6) by striking out the period at the end of paragraph (8) (as so redesignated) and inserting in lieu thereof "; and";

(7) by adding after paragraph (8) (as so redesignated) the following new paragraph:

"(9) studying the economic feasibility of developing other native agricultural crops (in addition to Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, and, to the extent appropriate, carrying out research activities with respect to such crops in the manner specified in paragraphs (1) through (8)."; and

(8) by adding at the end thereof the following new subsection:

Office of Critical Agricultural Materials.

"(c) The Secretary of Agriculture shall establish within the Department of Agriculture an Office of Critical Agricultural Materials, as a central location where such Department can address research and development with respect to agricultural crops that have the potential of producing critical materials for strategic and industrial purposes.".

7 USC 178d.

SEC. 6. Section 6 of the Act is amended—

(1) by inserting before the period at the end of the first sentence the following: "or the manufacture and commercialization of other critical agricultural materials from native agricultural crops having strategic and industrial importance";

(2) by striking out "may be carried out through the Regional Commissions or otherwise and" in the second sentence;

(3) by striking out "and" at the end of clause (e);

(4) by striking out the period at the end of clause (f) and inserting in lieu thereof "; and"; and

(5) by adding after clause (f) the following new clause:

"(g) to the extent appropriate, carrying out research activities with respect to native agricultural crops (other than Parthenium and other hydrocarbon-containing plants) that would supply critical agricultural materials for strategic and industrial purposes, in the manner specified in clauses (a) through (f).".

7 USC 178e.

SEC. 7. Section 7 of the Act is amended—

(1) by inserting ", the Government of Australia, and the Government of Israel" after "Mexico"; and

(2) by striking out "latex extraction and processing" and inserting in lieu thereof "extraction and processing of latex and other critical agricultural materials produced in the United States".

7 USC 178f.

SEC. 8. Section 8 of the Act is amended by inserting before the period at the end thereof the following: "or to other critical agricultural materials".

7 USC 178g.

SEC. 9. Section 9 of the Act is amended—

(1) by inserting "or the culture of other native agricultural crops which could supply critical agricultural materials" before the semicolon in clause (h); and

(2) by inserting "or the technology of other native agricultural crops which could supply critical agricultural materials" before the semicolon in clause (i).

7 USC 178h.

SEC. 10. Section 10 of the Act is amended—

(1) by striking out "the provisions of this section" and inserting in lieu thereof "the provisions of this Act";

(2) by striking out ", acting through the Regional Commissions or otherwise,";

(3) by inserting "having expertise in native agricultural crops which could supply critical agricultural materials" after "personnel" in clause (b); and

(4) by striking out "natural rubber manufacture" in clause (f) and inserting in lieu thereof "the activities authorized by this Act".

7 USC 178i.

SEC. 11. Section 11 of the Act is amended—

(1) by striking out "shall insure that their activities are closely coordinated with the activities of other Federal agencies" and inserting in lieu thereof "shall cooperate with each other in the conduct of their activities under this Act, and shall insure that their activities under this Act are closely coordinated with the activities of other Federal agencies";

(2) by inserting "Department of State," after "Department of Energy,"; and

(3) by striking out "Federal Preparedness Agency, and others" and inserting in lieu thereof "Federal Emergency Management Agency, and others,".

7 USC 178k.

SEC. 12. Section 13 of the Act is amended—

(1) by striking out "The Secretary of Agriculture and the Secretary of Commerce" and inserting in lieu thereof "The Secretaries";

(2) by inserting after "byproducts" the following: ", as well as products, other than rubber, developed from agricultural crops which are of strategic and industrial importance,"; and

(3) by inserting after the first sentence the following new sentence: "Dispositions under this section may include sales of the materials involved to other Federal departments and agencies for testing purposes.".

7 USC 178l.

SEC. 13. Section 14 of the Act is amended by striking out "The Secretary of Agriculture and the Secretary of Commerce" and inserting in lieu thereof "The Secretaries".

7 USC 178m.

SEC. 14. Section 15 of the Act is amended—

(1) by striking out "The Secretary of Agriculture and the Secretary of Commerce" and inserting in lieu thereof "The Secretaries"; and

(2) by striking out "1982" and inserting in lieu thereof "1987".

Appropriation authorizations.
7 USC 178n.

SEC. 15. (a) Section 16(a) of the Act is amended by striking out "and" where it appears after "1981," and by inserting after "1983," the following: "$5,000,000 for the fiscal year ending September 30, 1984, $5,500,000 for the fiscal year ending September 30, 1985, $6,500,000 for the fiscal year ending September 30, 1986, $7,500,000 for the fiscal year ending September 30, 1987, and $8,000,000 for the fiscal year ending September 30, 1988,".

(b) Section 16(b) of the Act is amended by striking out "and" where it appears after "1981," and by inserting after "1983," the following: "$2,500,000 for the fiscal year ending September 30, 1984, $3,000,000 for the fiscal year ending September 30, 1985, $3,500,000 for the fiscal year ending September 30, 1986, $4,000,000 for the fiscal year ending September 30, 1987, and $4,500,000 for the fiscal year ending September 30, 1988,".

(c) Section 16 of the Act is further amended by adding at the end thereof the following new subsection: 7 USC 178n.

"(e) Notwithstanding any other provision of this Act, the Secretaries and the Joint Commission shall limit their activities under this Act to critical agricultural materials other than native latex after the close of the fiscal year ending September 30, 1988.".

Approved May 16, 1984.

LEGISLATIVE HISTORY—H.R. 2733:

HOUSE REPORTS: No. 98-109, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on Science and Technology).
SENATE REPORT No. 98-164 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 129 (1983): May 17, considered and passed House.
Vol. 130 (1984): May 1, considered and passed Senate.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT, 1985

Public Law 98-361
98th Congress

An Act

July 16, 1984
[H.R. 5154]

To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

National Aeronautics and Space Administration Authorization Act, 1985.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, 1985".

TITLE I—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 101. There is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1984:

(a) For "Research and development", for the following programs:

(1) Space transportation capability development, $351,400,000;

(2) Space station, $150,000,000

(3) Physics and astronomy, $696,200,000;

(4) Life sciences, $63,300,000;

(5) Planetary exploration, $296,900,000:

(6) Space applications, $390,100,000 of which $45,000,000 is authorized only for the Advanced Communications Technology Satellite flight program which is designed to lead to a launch of such satellite no later than 1989;

(7) Technology utilization, $9,500,000;

(8) Aeronautical research and technology, $352,400,000, of which $24,000,000 is authorized only for activities which are designed to lead to a flight test of a single rotation or counter rotation turboprop concept no later than 1987 (and for supporting research and technology);

(9) Space research and technology, $150,000,000; and

(10) Tracking and data advanced systems, $15,300,000.

(b) For "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,470,600,000;

(2) Space transportation operations, $1,319,000,000; and

(3) Space and ground network, communications and data systems, $795,700,000.

(c) Except as provided in section 102(a), for "Construction of facilities", including land acquisition, as follows:

(1) Repairs to test stand 500, George C. Marshall Space Flight Center, $1,600,000;

(2) Space shuttle facilities at various locations as follows:

(A) Modifications of site electrical substation, Lyndon B. Johnson Space Center, $3,200,000;

(B) Modification for single engine testing, National Space Technology Laboratories, $3,000,000;

(C) Construction of launch complex 39 logistics facility, John F. Kennedy Space Center, $10,000,000;

(D) Construction of solid rocket booster assembly and refurbishment facility, John F. Kennedy Space Center, $15,000,000;

(3) Space shuttle payload facilities at various locations as follows:

(A) Construction of additions to cargo hazardous servicing facility, John F. Kennedy Space Center, $4,600,000;

(B) Construction of biomedical research facility, Ames Research Center, $2,100,000;

(4) Construction of addition to network control center, Goddard Space Flight Center, $2,200,000;

(5) Construction of Earth and space science laboratory, Jet Propulsion Laboratory, $12,200,000;

(6) Construction of numerical aerodynamic simulation facility, Ames Research Center, $11,500,000;

(7) Modifications of the 8-foot high temperature tunnel, Langley Research Center, $13,800,000;

(8) Construction of 34-meter antenna, Madrid, Spain, $6,000,000;

(9) Modifications of 64-meter antenna, DSS–63, Madrid, Spain, $7,800,000;

(10) Repair of facilities at various locations, not in excess of $750,000 per project, $20,000,000;

(11) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $25,000,000;

(12) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $5,000,000; and

(13) Facility planning and design not otherwise provided for, $12,000,000.

(d)(1) For "Research and program management", $1,316,000,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

(2) Of the funds authorized under paragraph (1) $1,000,000 shall be available for the activities of the National Commission on Space, established pursuant to title II of this Act.

Grants.

(e) Notwithstanding the provisions of subsection (h), appropriations hereby authorized for "Research and development" and "Space flight, control and data communications" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to insure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

42 USC 2459a.

(f) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development," for "Space flight, control and data communications" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(g) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(h) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided*, That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 102. (a) Notwithstanding the provisions of section 101(c) of the title, the total amount authorized to be appropriated by such section shall be $5,000,000 less than the sum of the amounts contained in paragraphs (1) through (13) of such section for individual projects.

(b) After the reduction specified in subsection (a) of this section is made, authorization is granted whereby any of the amounts prescribed in paragraphs (1) through (12) inclusive, of section 101(c)—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward 10 per centum, or

Report.

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum, to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to section 101(a) or 101(b) hereof may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of funds appropriated pursuant to section 101(c) hereof (other than funds appropriated pursuant to paragraph (13) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installation at any location (including locations specified in section 101(c)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of thirty days has passed after the Administrator or the Administrator's designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and to the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (A) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

Report.

SEC. 104. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science and Technology or the Senate Committee on Commerce, Science, and Transportation;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by sections 101(a), 101(b), and 101(d); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committeee;

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

Funds.
42 USC 2459.

SEC. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

SEC. 106. The authorization for shuttle production and operational capability includes provisions for the production of structural spares and the critical skills necessary for installation of electrical, mechanical, and fluid systems thereby maintaining production readiness for a fifth orbiter vehicle.

Defense and national security.

SEC. 107. No civil space station authorized under section 101(a)(2) of this title may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

15 USC 4261 note.

SEC. 108. (a) The Administrator of the National Aeronautics and Space Administration is directed to continue and to enhance such Administration's programs of remote-sensing research and development.

(b) The Administrator is authorized and encouraged to—

(1) conduct experimental space remote-sensing programs (including applications demonstration programs and basic research at universities);

(2) develop remote-sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(3) conduct such research and development in cooperation with other public and private research entities, including private industry, universities, Federal, State, and local government agencies, foreign governments, and international organizations, and to enter into arrangements (including joint ventures) which will foster such cooperation.

SEC. 109. It is the intent of the Congress that expenditures made from sums appropriated pursuant to the authorization contained in subsection (a)(8) of section 101 of this Act for activities in the advanced turboprop program should be recouped by the National Aeronautics and Space Administration if and when commercially successful products are developed by the aircraft industry as a direct result of such activities. For this purpose the Administrator shall submit to Congress within sixty days of enactment of this Act a plan for the payment to the Administrator of royalties by firms in the aircraft industry with respect to any such products which may be so developed by them.

Royalty payments plan.

SEC. 110. (a) Section 102 of the National Aeronautics and Space Act of 1958, as amended, is amended—

42 USC 2451.

(1) by striking out "(e) and (f)" in subsection (g) and inserting in lieu thereof "(e), (f), and (g)";

(2) by redesignating subsections (c) through (g) as subsections (d) through (h); and

(3) by inserting after subsection (b) the following new subsection:

Congress. Defense and national security.

"(c) The Congress declares that the general welfare of the United States requires that the National Aeronautics and Space Administration (as established by title II of this Act) seek and encourage, to the maximum extent possible, the fullest commercial use of space.".

(b) Section 102(d)(1) of the National Aeronautics and Space Act of 1958, as amended (and as redesignated by subsection (a) of this section), is amended by inserting "of the Earth and" after "knowledge".

Property, Federal.

SEC. 111. (a) Any Federal personal property may be disposed of in accordance with subsection (b) if such property—

(1) is scientific research or development equipment and is not personal property that may be used for general administrative purposes;

(2) has been loaned by the National Aeronautics and Space Administration to any academic institution or nonprofit organization; and

(3) as of March 31, 1984, has been on loan to any such institution or organization for at least two years.

(b) The Administrator may transfer title to property described in subsection (a) to an academic institution or nonprofit organization if the Administrator certifies that—

(1) such property is being used by the institution or organization holding such property for a purpose consistent with the use intended when the property was loaned; and

(2) the Administration will no longer need such property.

TITLE II—NATIONAL COMMISSION ON SPACE

PURPOSE

42 USC 2451 note.

SEC. 201. It is the purpose of this title to establish a National Commission on Space that will assist the United States—

(1) to define the long-range needs of the Nation that may be fulfilled through the peaceful uses of outer space;

(2) to maintain the Nation's preeminence in space science, technology, and applications;

(3) to promote the peaceful exploration and utilization of the space environment; and

(4) to articulate goals and develop options for the future direction of the Nation's civilian space program.

FINDINGS

Congress.
42 USC 2451 note.
42 USC 2451 note.

SEC. 202. The Congress finds and declares that—

(1) the National Aeronautics and Space Administration, the lead civilian space agency, as established in the National Aeronautics and Space Act of 1958, as amended, has conducted a space program that has been an unparalleled success, providing significant economic, social, scientific, and national security benefits, and helping to maintain international stability and good will;

(2) the National Aeronautics and Space Act of 1958, as amended (42 U.S.C. 2451 et seq.), has provided the policy framework for achieving this success, and continues to be a sound statutory basis for national efforts in space;

(3) the United States is entering a new era of international competition and cooperation in space, and therefore this Nation must strengthen the commitment of its public and private technical, financial, and institutional resources, so that the United States will not lose its leadership position during this decade;

(4) while there continues to be a crucial Government role in space science, advanced research and development, provision of public goods and services and coordination of national and international efforts, advances in applications of space technology have raised many issues regarding public and private sector roles and relationships in technology development, applications, and marketing;

(5) the private sector will continue to evolve as a major participant in the utilization of the space environment;

(6) the Nation is committed to a permanently manned space station in low Earth orbit, and future national efforts in space will benefit from the presence of such a station;

(7) the separation of the civilian and military space programs is essential to ensure the continued health and vitality of both; and

(8) the identification of long range goals and policy options for the United States civilian space program through a high level,

representational public forum will assist the President and Congress in formulating future policies for the United States civilian space program.

NATIONAL COMMISSION ON SPACE

President of U.S.
42 USC 2451 note.

SEC. 203. (a)(1) The President shall within ninety days of the enactment of this Act establish a National Commission on Space (hereinafter in this title referred to as the "Commission"), which shall be composed of 15 members appointed by the President. The members appointed under this subsection shall be selected from among individuals from Federal, State, and local governments, industry, business, labor, academia, and the general population who, by reason of their background, education training, or experience, possess expertise in scientific and technological pursuits, as well as the use and implications of the use of such pursuits. Of the fifteen members appointed, not more than three members may be employees of the Federal Government. The President shall designate one of the members of the Commission appointed under this subsection to serve as Chairman, and one of the members to serve as Vice Chairman. The Vice Chairman shall perform the functions of the Chairman in the Chairman's absence.

(2) Members appointed by the President under paragraph (1) of this subsection may be paid at a rate not to exceed the daily equivalent of the annual rate of basic pay in effect under section 5332 of title 5, United States Code, for grade GS-18 of the General Schedule for each day, including traveltime, during which such members are engaged in the actual performance of the duties of the Commission. While away from their homes or regular places of business, such members may be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code. Individuals who are not officers or employees of the United States and who are members of the Commission shall not be considered officers or employees of the United States by reason of receiving payments under this paragraph.

(b)(1) The President shall appoint one individual from each of the following Federal departments and agencies to serve as ex officio, advisory, non-voting members of the Commission (if such department or agency does not already have a member appointed to the Commission pursuant to subsection (a)(1)):

(A) National Aeronautics and Space Administration.
(B) Department of State.
(C) Department of Defense.
(D) Department of Transportation.
(E) Department of Commerce.
(F) Department of Agriculture.
(G) Department of the Interior.
(H) National Science Foundation.
(I) Office of Science and Technology Policy.

Congress.

(2) The President of the Senate shall appoint two advisory members of the Commission from among the Members of the Senate and the Speaker of the House of Representatives shall appoint two advisory members of the Commission from among the Members of the House of Representatives. Such members shall not participate,

except in an advisory capacity, in the formulation of the findings and recommendations of the Commission.

(3) Members of the Commission appointed under this subsection shall not be entitled to receive compensation for service relating to the performance of the duties of the Commission, but shall be entitled to reimbursement for travel expenses incurred while in the actual performance of the duties of the Commission.

(c) The Commission shall appoint and fix the compensation of such personnel as it deems advisable. The Chairman of the Commission shall be responsible for—

(1) the assignment of duties and responsibilities among such personnel and their continuing supervision; and

(2) the use and expenditures of funds available to the Commission.

In carrying out the provisions of this subsection, the Chairman shall act in accordance with the general policies of the Commission.

(d) To the extent permitted by law, the Commission may secure directly from any executive department, agency, or independent instrumentality of the Federal Government any information it deems necessary to carry out its functions under this Act. Each such department, agency, and instrumentality shall cooperate with the Commission and, to the extent permitted by law and upon request of the Chairman of the Commission, furnish such information to the Commission.

(e) The Commission may hold hearings, receive public comment and testimony, initiate surveys, and undertake other appropriate activities to gather the information necessary to carry out its activities under section 204 of this title.

(f) The Commission shall cease to exist sixty days after it has submitted the plan required by section 204(c) of this title.

Expiration date.

FUNCTIONS OF THE COMMISSION

42 USC 2451 note.

SEC. 204. (a) The Commission shall study existing and proposed space activities and formulate an agenda for the United States civilian space program. The Commission shall identify long range goals, opportunities, and policy options for United States civilian space activity for the next twenty years. In carrying out this responsibility, the Commission shall take into consideration—

(1) the commitment by the Nation to a permanently manned space station in low Earth orbit;

(2) present and future scientific, economic, social, environmental, and foreign policy needs of the United States, and methods by which space science, technology, and applications initiatives might address those needs;

(3) the adequacy of the Nation's public and private capability in fulfilling the needs identified in paragraph (2);

(4) how a cooperative interchange between Federal agencies on research and technology development programs can benefit the civilian space program;

(5) opportunities for, and constraints on, the use of outer space toward the achievement of Federal program objectives or national needs;

(6) current and emerging issues and concerns that may arise through the utilization of space research, technology development, and applications;

(7) the Commission shall analyze the findings of the reviews specified in paragraphs (1) through (6) of this subsection, and develop options and recommendations for a long range national civilian space policy plan.

(b) Options and recommendations submitted in accordance with subsection (a)(7) of this section shall include, to the extent appropriate, an estimate of costs and time schedules, institutional requirements, and statutory modifications necessary for implementation of such options and recommendations.

Civilian space activity plan.

(c) Within twelve months after the date of the establishment of the Commission, the Commission shall submit to the President and to the Committee on Commerce, Science and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives, a long range plan for United States civilian space activity incorporating the results of the studies conducted under this section, together with recommendations for such legislation as the Commission determines to be appropriate.

Approved July 16, 1984.

LEGISLATIVE HISTORY—H.R. 5154:

HOUSE REPORTS: No. 98-629 (Comm. on Science and Technology) and No. 98-873 (Comm. of Conference).
SENATE REPORT No. 98-455 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Mar. 28, considered and passed House.
June 21, considered and passed Senate, amended.
June 27, Senate agreed to conference report.
June 28, House agreed to conference report.

Public Law 98-365
98th Congress

An Act

To establish a system to promote the use of land remote-sensing satellite data, and for other purposes.

July 17, 1984
[H.R. 5155]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Land Remote-Sensing Commercialization Act of 1984".

Land Remote-Sensing Commercialization Act of 1984.
Communications and telecommunications.
15 USC 4201 note.

TITLE I—DECLARATION OF FINDINGS, PURPOSES, AND POLICIES

FINDINGS

Congress.
15 USC 4201.

SEC. 101. The Congress finds and declares that—

(1) the continuous civilian collection and utilization of land remote-sensing data from space are of major benefit in managing the Earth's natural resources and in planning and conducting many other activities of economic importance;

Landsat system.

(2) the Federal Government's experimental Landsat system has established the United States as the world leader in land remote-sensing technology;

(3) the national interest of the United States lies in maintaining international leadership in civil remote sensing and in broadly promoting the beneficial use of remote-sensing data;

Defense and national security.

(4) land remote sensing by the Government or private parties of the United States affects international commitments and policies and national security concerns of the United States;

(5) the broadest and most beneficial use of land remote-sensing data will result from maintaining a policy of nondiscriminatory access to data;

(6) competitive, market-driven private sector involvement in land remote sensing is in the national interest of the United States;

(7) use of land remote-sensing data has been inhibited by slow market development and by the lack of assurance of data continuity;

(8) the private sector, and in particular the "value-added" industry, is best suited to develop land remote-sensing data markets;

(9) there is doubt that the private sector alone can currently develop a total land remote-sensing system because of the high risk and large capital expenditure involved;

(10) cooperation between the Federal Government and private industry can help assure both data continuity and United States leadership;

(11) the time is now appropriate to initiate such cooperation with phased transition to a fully commercial system;

(12) such cooperation should be structured to involve the minimum practicable amount of support and regulation by the

Federal Government and the maximum practicable amount of competition by the private sector, while assuring continuous availability to the Federal Government of land remote-sensing data;

(13) certain Government oversight must be maintained to assure that private sector activities are in the national interest and that the international commitments and policies of the United States are honored; and

(14) there is no compelling reason to commercialize meteorological satellites at this time.

PURPOSES

15 USC 4202.

SEC. 102. The purposes of this Act are to—

(1) guide the Federal Government in achieving proper involvement of the private sector by providing a framework for phased commercialization of land remote sensing and by assuring continuous data availability to the Federal Government;

Defense and national security.

(2) maintain the United States worldwide leadership in civil remote sensing, preserve its national security, and fulfill its international obligations;

(3) minimize the duration and amount of further Federal investment necessary to assure data continuity while achieving commercialization of civil land remote sensing;

(4) provide for a comprehensive civilian program of research, development, and demonstration to enhance both the United States capabilities for remote sensing from space and the application and utilization of such capabilities; and

(5) prohibit commercialization of meteorological satellites at this time.

POLICIES

15 USC 4203.

SEC. 103. (a) It shall be the policy of the United States to preserve its right to acquire and disseminate unenhanced remote-sensing data.

(b) It shall be the policy of the United States that civilian unenhanced remote-sensing data be made available to all potential users on a nondiscriminatory basis and in a manner consistent with applicable antitrust laws.

Defense and national security.

(c) It shall be the policy of the United States both to commercialize those remote-sensing space systems that properly lend themselves to private sector operation and to avoid competition by the Government with such commercial operations, while continuing to preserve our national security, to honor our international obligations, and to retain in the Government those remote-sensing functions that are essentially of a public service nature.

DEFINITIONS

15 USC 4204.

SEC. 104. For purposes of this Act:

(1) The term "Landsat system" means Landsats 1, 2, 3, 4, and 5, and any related ground equipment, systems, and facilities, and any successor civil land remote-sensing space systems operated by the United States Government prior to the commencement of the six-year period described in title III.

(2) The term "Secretary" means the Secretary of Commerce.

(3)(A) The term "nondiscriminatory basis" means without preference, bias, or any other special arrangement (except on the basis of national security concerns pursuant to section 607) regarding delivery, format, financing, or technical considerations which would favor one buyer or class of buyers over another.

(B) The sale of data is made on a nondiscriminatory basis only if (i) any offer to sell or deliver data is published in advance in such manner as will ensure that the offer is equally available to all prospective buyers; (ii) the system operator has not established or changed any price, policy, procedure, or other term or condition in a manner which gives one buyer or class of buyer de facto favored access to data; (iii) the system operator does not make unenhanced data available to any purchaser on an exclusive basis; and (iv) in a case where a system operator offers volume discounts, such discounts are no greater than the demonstrable reductions in the cost of volume sales. The sale of data on a nondiscriminatory basis does not preclude the system operator from offering discounts other than volume discounts to the extent that such discounts are consistent with the provisions of this paragraph.

(C) The sale of data on a nondiscriminatory basis does not require (i) that a system operator disclose names of buyers or their purchases; (ii) that a system operator maintain all, or any particular subset of, data in a working inventory; or (iii) that a system operator expend equal effort in developing all segments of a market.

(4) The term "unenhanced data" means unprocessed or minimally processed signals or film products collected from civil remote-sensing space systems. Such minimal processing may include rectification of distortions, registration with respect to features of the Earth, and calibration of spectral response. Such minimal processing does not include conclusions, manipulations, or calculations derived from such signals or film products or combination of the signals or film products with other data or information.

(5) The term "system operator" means a contractor under title II or title III or a license holder under title IV.

TITLE II—OPERATION AND DATA MARKETING OF LANDSAT SYSTEM

OPERATION

Sec. 201. (a) The Secretary shall be responsible for— 15 USC 4211.

(1) the Landsat system, including the orbit, operation, and disposition of Landsats 1, 2, 3, 4, and 5; and

(2) provision of data to foreign ground stations under the terms of agreements between the United States Government and nations that operate such ground stations which are in force on the date of commencement of the contract awarded pursuant to this title.

(b) The provisions of this section shall not affect the Secretary's authority to contract for the operation of part or all of the Landsat system, so long as the United States Government retains—

(1) ownership of such system;

(2) ownership of the unenhanced data; and

(3) authority to make decisions concerning operation of the system.

CONTRACT FOR MARKETING OF UNENHANCED DATA

15 USC 4212.

Sec. 202. (a) In accordance with the requirements of this title, the Secretary, by means of a competitive process and to the extent provided in advance by appropriation Acts, shall contract with a United States private sector party (as defined by the Secretary) for the marketing of unenhanced data collected by the Landsat system. Any such contract—

(1) shall provide that the contractor set the prices of unenhanced data;

(2) may provide for financial arrangements between the Secretary and the contractor including fees for operating the system, payments by the contractor as an initial fee or as a percentage of sales receipts, or other such considerations;

(3) shall provide that the contractor will offer to sell and deliver unenhanced data to all potential buyers on a nondiscriminatory basis;

(4) shall provide that the contractor pay to the United States Government the full purchase price of any unenhanced data that the contractor elects to utilize for purposes other than sale;

(5) shall be entered into by the Secretary only if the Secretary has determined that such contract is likely to result in net cost savings for the United States Government; and

(6) may be reawarded competitively after the practical demise of the space segment of the Landsat system, as determined by the Secretary.

(b) Any contract authorized by subsection (a) may specify that the contractor use, and, at his own expense, maintain, repair, or modify, such elements of the Landsat system as the contractor finds necessary for commercial operations.

Congress.

(c) Any decision or proposed decision by the Secretary to enter into any such contract shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives for their review. No such decision or proposed decision shall be implemented unless (A) a period of thirty calendar days has passed after the receipt by each such committee of such transmittal, or (B) each such committee before the expiration of such period has agreed to transmit and has transmitted to the Secretary written notice to the effect that such committee has no objection to the decision or proposed decision. As part of the transmittal, the Secretary shall include information on the terms of the contract described in subsection (a).

(d) In defining "United States private sector party" for purposes of this Act, the Secretary may take into account the citizenship of key personnel, location of assets, foreign ownership, control, influence, and other such factors.

CONDITIONS OF COMPETITION FOR CONTRACT

15 USC 4213.

Sec. 203. (a) The Secretary shall, as part of the advertisement for the competition for the contract authorized by section 202, identify and publish the international obligations, national security concerns (with appropriate protection of sensitive information), domestic legal considerations, and any other standards or conditions which a private contractor shall be required to meet.

(b) In selecting a contractor under this title, the Secretary shall consider—

(1) ability to market aggressively unenhanced data;

(2) the best overall financial return to the Government, including the potential cost savings to the Government that are likely to result from the contract;

(3) ability to meet the obligations, concerns, considerations, standards, and conditions identified under subsection (a);

(4) technical competence, including the ability to assure continuous and timely delivery of data from the Landsat system;

(5) ability to effect a smooth transition with the contractor selected under title III; and

(6) such other factors as the Secretary deems appropriate and relevant.

Report.

(c) If, as a result of the competitive process required by section 202(a), the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. As soon as practicable but not later than thirty days after so certifying and reporting, the Secretary shall reopen the competitive process. The period for the subsequent competitive process shall not exceed one hundred and twenty days. If, after such subsequent competitive process, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. In the event that no acceptable proposal is received, the Secretary shall continue to market data from the Landsat system.

(d) A contract awarded under section 202 may, in the discretion of the Secretary, be combined with the contract required by title III, pursuant to section 304(b).

SALE OF DATA

15 USC 4214.

SEC. 204. (a) After the date of the commencement of the contract described in section 202(a), the contractor shall be entitled to revenues from sales of copies of data from the Landsat system, subject to the conditions specified in sections 601 and 602.

(b) The contractor may continue to market data previously generated by the Landsat system after the demise of the space segment of that system.

FOREIGN GROUND STATIONS

15 USC 4215.

SEC. 205. (a) The contract under this title shall provide that the contractor shall act as the agent of the Secretary by continuing to supply unenhanced data to foreign ground stations for the life, and according to the terms, of those agreements between the United States Government and such foreign ground stations that are in force on the date of the commencement of the contract.

(b) Upon the expiration of such agreements, or in the case of foreign ground stations that have no agreement with the United States on the date of commencement of the contract, the contract shall provide—

(1) that unenhanced data from the Landsat system shall be made available to foreign ground stations only by the contractor; and

(2) that such data shall be made available on a nondiscriminatory basis.

TITLE III—PROVISION OF DATA CONTINUITY AFTER THE LANDSAT SYSTEM

PURPOSES AND DEFINITION

15 USC 4221.

SEC. 301. (a) It is the purpose of this title—

(1) to provide, in an orderly manner and with minimal risk, for a transition from Government operation to private, commercial operation of civil land remote-sensing systems; and

(2) to provide data continuity for six years after the practical demise of the space segment of the Landsat system.

(b) For purposes of this title, the term "data continuity" means the continued availability of unenhanced data—

(1) including data which are from the point of view of a data user—

(A) functionally equivalent to the multispectral data generated by the Landsat 1 and 2 satellites; and

(B) compatible with such data and with equipment used to receive and process such data; and

(2) at an annual volume at least equal to the Federal usage during fiscal year 1983.

(c) Data continuity may be provided using whatever technologies are available.

DATA CONTINUITY AND AVAILABILITY

Contracts with U.S.
15 USC 4222.

SEC. 302. The Secretary shall solicit proposals from United States private sector parties (as defined by the Secretary pursuant to section 202) for a contract for the development and operation of a remote-sensing space system capable of providing data continuity for a period of six years and for marketing unenhanced data in accordance with the provisions of sections 601 and 602. Such proposals, at a minimum, shall specify—

(1) the quantities and qualities of unenhanced data expected from the system;

(2) the projected date upon which operations could begin;

(3) the number of satellites to be constructed and their expected lifetimes;

(4) any need for Federal funding to develop the system;

(5) any percentage of sales receipts or other returns offered to the Federal Government;

(6) plans for expanding the market for land remote-sensing data; and

(7) the proposed procedures for meeting the national security concerns and international obligations of the United States in accordance with section 607.

AWARDING OF THE CONTRACT

15 USC 4223.

SEC. 303. (a)(1) In accordance with the requirements of this title, the Secretary shall evaluate the proposals described in section 302 and, by means of a competitive process and to the extent provided in advance by appropriation Acts, shall contract with the United States private sector party for the capability of providing data continuity for a period of six years and for marketing unenhanced data.

(2) Before commencing space operations the contractor shall obtain a license under title IV.

(b) As part of the evaluation described in subsection (a), the Secretary shall analyze the expected outcome of each proposal in terms of—

(1) the net cost to the Federal Government of developing the recommended system;

(2) the technical competence and financial condition of the contractor;

(3) the availability of such data after the expected termination of the Landsat system;

(4) the quantities and qualities of data to be generated by the recommended system;

(5) the contractor's ability to supplement the requirement for data continuity by adding, at the contractor's expense, remote-sensing capabilities which maintain United States leadership in remote sensing;

(6) the potential to expand the market for data;

(7) expected returns to the Federal Government based on any percentage of data sales or other such financial consideration offered to the Federal Government in accordance with section 305;

(8) the commercial viability of the proposal;

(9) the proposed procedures for satisfying the national security concerns and international obligations of the United States;

(10) the contractor's ability to effect a smooth transition with any contractor selected under title II; and

(11) such other factors as the Secretary deems appropriate and relevant.

Congress.

(c) Any decision or proposed decision by the Secretary to enter into any such contract shall be transmitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives for their review. No such decision or proposed decision shall be implemented unless (1) a period of thirty calendar days has passed after the receipt by each such committee of such transmittal, or (2) each such committee before the expiration of such period has agreed to transmit and has transmitted to the Secretary written notice to the effect that such committee has no objection to the decision or proposed decision. As part of the transmittal, the Secretary shall include the information specified in subsection (a).

Report.

(d) If, as a result of the competitive process required by this section, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. As soon as practicable but not later than thirty days after so certifying and reporting, the Secretary shall reopen the competitive process. The period for the subsequent competitive process shall not exceed one hundred and eighty days. If, after such subsequent competitive process, the Secretary receives no proposal which is acceptable under the provisions of this title, the Secretary shall so certify and fully report such finding to the Congress. Not earlier than ninety days after such certification and report, the Secretary may assure data continuity by procurement and operation by the Federal Government of the necessary systems, to the extent provided in advance by appropriation Acts.

TERMS OF CONTRACT

15 USC 4224.

SEC. 304. (a) Any contract entered into pursuant to this title—

(1) shall be entered into as soon as practicable, allowing for the competitive procurement process required by this title;

(2) shall, in accordance with criteria determined and published by the Secretary, reasonably assure data continuity for a period of six years, beginning as soon as practicable in order to minimize any interruption of data availability;

(3) shall provide that the contractor will offer to sell and deliver unenhanced data to all potential buyers on a nondiscriminatory basis;

(4) shall not provide a guarantee of data purchases from the contractor by the Federal Government;

(5) may provide that the contractor utilize, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for a civil land remote-sensing space system, if—

(A) the contractor agrees to reimburse the Government immediately for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(B) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for the civilian platform; and

(6) may provide financial support by the United States Government, for a portion of the capital costs required to provide data continuity for a period of six years, in the form of loans, loan guarantees, or payments pursuant to section 305 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 255).

(b)(1) Without regard to whether any contract entered into under this title is combined with a contract under title II, the Secretary shall promptly determine whether the contract entered into under this title reasonably effectuates the purposes and policies of title II. Such determination shall be submitted to the President and the Congress, together with a full statement of the basis for such determination.

(2) If the Secretary determines that such contract does not reasonably effectuate the requirements of title II, the Secretary shall promptly carry out the provisions of such title to the extent provided in advance in appropriations Acts.

MARKETING

15 USC 4225.

SEC. 305. (a) In order to promote aggressive marketing of land remote-sensing data, any contract entered into pursuant to this title may provide that the percentage of sales paid by the contractor to the Federal Government shall decrease according to stipulated increases in sales levels.

(b) After the six-year period described in section 304(a)(2), the contractor may continue to sell data. If licensed under title IV, the contractor may continue to operate a civil remote-sensing space system.

REPORT

15 USC 4226.

SEC. 306. Two years after the date of the commencement of the six-year period described in section 304(a)(2), the Secretary shall report to the President and to the Congress on the progress of the transition to fully private financing, ownership, and operation of remote-sensing space systems, together with any recommendations for actions, including actions necessary to ensure United States leadership in civilian land remote sensing from space.

TERMINATION OF AUTHORITY

15 USC 4227.

SEC. 307. The authority granted to the Secretary by this title shall terminate ten years after the date of enactment of this Act.

TITLE IV—LICENSING OF PRIVATE REMOTE-SENSING SPACE SYSTEMS

GENERAL AUTHORITY

15 USC 4241.

SEC. 401. (a)(1) In consultation with other appropriate Federal agencies, the Secretary is authorized to license private sector parties to operate private remote-sensing space systems for such period as the Secretary may specify and in accordance with the provisions of this title.

(2) In the case of a private space system that is used for remote sensing and other purposes, the authority of the Secretary under this title shall be limited only to the remote-sensing operations of such space system.

(b) No license shall be granted by the Secretary unless the Secretary determines in writing that the applicant will comply with the requirements of this Act, any regulations issued pursuant to this Act, and any applicable international obligations and national security concerns of the United States.

Review date.

(c) The Secretary shall review any application and make a determination thereon within one hundred and twenty days of the receipt of such application. If final action has not occurred within such time, the Secretary shall inform the applicant of any pending issues and of actions required to resolve them.

(d) The Secretary shall not deny such license in order to protect any existing licensee from competition.

CONDITIONS FOR OPERATION

15 USC 4242.

SEC. 402. (a) No person who is subject to the jurisdiction or control of the United States may, directly or through any subsidiary or affiliate, operate any private remote-sensing space system without a license pursuant to section 401.

(b) Any license issued pursuant to this title shall specify, at a minimum, that the licensee shall comply with all of the requirements of this Act and shall—

Defense and national security.

(1) operate the system in such manner as to preserve and promote the national security of the United States and to observe and implement the international obligations of the United States in accordance with section 607;

(2) make unenhanced data available to all potential users on a nondiscriminatory basis;

(3) upon termination of operations under the license, make disposition of any satellites in space in a manner satisfactory to the President;

(4) promptly make available all unenhanced data which the Secretary may request pursuant to section 602;

(5) furnish the Secretary with complete orbit and data collection characteristics of the system, obtain advance approval of any intended deviation from such characteristics, and inform the Secretary immediately of any unintended deviation;

(6) notify the Secretary of any agreement the licensee intends to enter with a foreign nation, entity, or consortium involving foreign nations or entities;

(7) permit the inspection by the Secretary of the licensee's equipment, facilities, and financial records;

(8) surrender the license and terminate operations upon notification by the Secretary pursuant to section 403(a)(1); and

(9)(A) notify the Secretary of any "value added" activities (as defined by the Secretary by regulation) that will be conducted by the licensee or by a subsidiary or affiliate; and

(B) if such activities are to be conducted, provide the Secretary with a plan for compliance with the provisions of this Act concerning nondiscriminatory access.

ADMINISTRATIVE AUTHORITY OF THE SECRETARY

15 USC 4243.

SEC. 403. (a) In order to carry out the responsibilities specified in this title, the Secretary may—

(1) grant, terminate, modify, condition, transfer, or suspend licenses under this title, and upon notification of the licensee may terminate licensed operations on an immediate basis, if the Secretary determines that the licensee has substantially failed to comply with any provision of this Act, with any regulation issued under this Act, with any terms, conditions, or restrictions of such license, or with any international obligations or national security concerns of the United States;

(2) inspect the equipment, facilities, or financial records of any licensee under this title;

(3) provide penalties for noncompliance with the requirements of licenses or regulations issued under this title, including civil penalties not to exceed $10,000 (each day of operation in violation of such licenses or regulations constituting a separate violation);

(4) compromise, modify, or remit any such civil penalty;

(5) issue subpenas for any materials, documents, or records, or for the attendance and testimony of witnesses for the purpose of conducting a hearing under this section;

(6) seize any object, record, or report where there is probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act or the requirements of a license or regulation issued thereunder; and

(7) make investigations and inquiries and administer to or take from any person an oath, affirmation, or affidavit concerning any matter relating to the enforcement of this Act.

(b) Any applicant or licensee who makes a timely request for review of an adverse action pursuant to subsection (a)(1), (a)(3), or (a)(6) shall be entitled to adjudication by the Secretary on the record after an opportunity for an agency hearing with respect to such adverse action. Any final action by the Secretary under this subsection shall be subject to judicial review under chapter 7 of title 5, United States Code. 5 USC 701 *et seq.*

REGULATORY AUTHORITY OF THE SECRETARY

SEC. 404. The Secretary may issue regulations to carry out the provisions of this title. Such regulations shall be promulgated only after public notice and comment in accordance with the provisions of section 553 of title 5, United States Code. 15 USC 4244.

AGENCY ACTIVITIES

SEC. 405. (a) A private sector party may apply for a license to operate a private remote-sensing space system which utilizes, on a space-available basis, a civilian United States Government satellite or vehicle as a platform for such system. The Secretary, pursuant to the authorities of this title, may license such system if it meets all conditions of this title and— 15 USC 4245.

(1) the system operator agrees to reimburse the Government immediately for all related costs incurred with respect to such utilization, including a reasonable and proportionate share of fixed, platform, data transmission, and launch costs; and

(2) such utilization would not interfere with or otherwise compromise intended civilian Government missions, as determined by the agency responsible for such civilian platform.

(b) The Secretary may offer assistance to private sector parties in finding appropriate opportunities for such utilization.

(c) To the extent provided in advance by appropriation Acts, any Federal agency may enter into agreements for such utilization if such agreements are consistent with such agency's mission and statutory authority, and if such remote-sensing space system is licensed by the Secretary before commencing operation.

(d) The provisions of this section do not apply to activities carried out under title V.

(e) Nothing in this title shall affect the authority of the Federal Communications Commission pursuant to the Communications Act of 1934, as amended (47 U.S.C. 151 et seq.). 47 USC 609.

TERMINATION

SEC. 406. If, five years after the expiration of the six-year period described in section 304(a)(2), no private sector party has been licensed and continued in operation under the provisions of this title, the authority of this title shall terminate. 15 USC 4246.

TITLE V—RESEARCH AND DEVELOPMENT

CONTINUED FEDERAL RESEARCH AND DEVELOPMENT

SEC. 501. (a)(1) The Administrator of the National Aeronautics and Space Administration is directed to continue and to enhance such Administration's programs of remote-sensing research and development. 15 USC 4261.

(2) The Administrator is authorized and encouraged to—

(A) conduct experimental space remote-sensing programs (including applications demonstration programs and basic research at universities);

(B) develop remote-sensing technologies and techniques, including those needed for monitoring the Earth and its environment; and

(C) conduct such research and development in cooperation with other Federal agencies and with public and private research entities (including private industry, universities, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(b)(1) The Secretary is directed to conduct a continuing program of—

(A) research in applications of remote-sensing;

(B) monitoring of the Earth and its environment; and

(C) development of technology for such monitoring.

(2) Such program may include support of basic research at universities and demonstrations of applications.

(3) The Secretary is authorized and encouraged to conduct such research, monitoring, and development in cooperation with other Federal agencies and with public and private research entities (including private industry, universities, State and local governments, foreign governments, and international organizations) and to enter into arrangements (including joint ventures) which will foster such cooperation.

(c)(1) In order to enhance the United States ability to manage and utilize its renewable and nonrenewable resources, the Secretary of Agriculture and the Secretary of the Interior are authorized and encouraged to conduct programs of research and development in the applications of remote sensing using funds appropriated for such purposes.

(2) Such programs may include basic research at universities, demonstrations of applications, and cooperative activities involving other Government agencies, private sector parties, and foreign and international organizations.

(d) Other Federal agencies are authorized and encouraged to conduct research and development on the use of remote sensing in fulfillment of their authorized missions, using funds appropriated for such purposes.

Report

(e) The Secretary and the Administrator of the National Aeronautics and Space Administration shall, within one year after the date of enactment of this Act and biennially thereafter, jointly develop and transmit to the Congress a report which includes (1) a unified national plan for remote-sensing research and development applied to the Earth and its atmosphere; (2) a compilation of progress in the relevant ongoing research and development activities of the Federal agencies; and (3) an assessment of the state of our knowledge of the Earth and its atmosphere, the needs for additional research (including research related to operational Federal remote-sensing space programs), and opportunities available for further progress.

USE OF EXPERIMENTAL DATA

15 USC 4262.

SEC. 502. Data gathered in Federal experimental remote-sensing space programs may be used in related research and development programs funded by the Federal Government (including applications programs) and cooperative research programs, but not for commercial uses or in competition with private sector activities, except pursuant to section 503.

SALE OF EXPERIMENTAL DATA

15 USC 4263.

SEC. 503. Data gathered in Federal experimental remote-sensing space programs may be sold en bloc through a competitive process (consistent with national security interests and international obligations of the United States and in accordance with section 607) to any United States entity which will market the data on a nondiscriminatory basis.

TITLE VI—GENERAL PROVISIONS

NONDISCRIMINATORY DATA AVAILABILITY

Public availability. 15 USC 4271.

SEC. 601. (a) Any unenhanced data generated by any system operator under the provisions of this Act shall be made available to all users on a nondiscriminatory basis in accordance with the requirements of this Act.

(b) Any system operator shall make publicly available the prices, policies, procedures, and other terms and conditions (but, in accordance with section 104(3)(C), not necessarily the names of buyers or their purchases) upon which the operator will sell such data.

ARCHIVING OF DATA

15 USC 4272.

SEC. 602. (a) It is in the public interest for the United States Government—

(1) to maintain an archive of land remote-sensing data for historical, scientific, and technical purposes, including long-term global environmental monitoring;

(2) to control the content and scope of the archive; and

(3) to assure the quality, integrity, and continuity of the archive.

(b) The Secretary shall provide for long-term storage, maintenance, and upgrading of a basic, global, land remote-sensing data set (hereinafter referred to as the "basic data set") and shall follow reasonable archival practices to assure proper storage and preservation of the basic data set and timely access for parties requesting data. The basic data set which the Secretary assembles in the Government archive shall remain distinct from any inventory of data which a system operator may maintain for sales and for other purposes.

(c) In determining the initial content of, or in upgrading, the basic data set, the Secretary shall—

(1) use as a baseline the data archived on the date of enactment of this Act;

(2) take into account future technical and scientific developments and needs;

(3) consult with and seek the advice of users and producers of remote-sensing data and data products;

(4) consider the need for data which may be duplicative in terms of geographical coverage but which differ in terms of season, spectral bands, resolution, or other relevant factors;

(5) include, as the Secretary considers appropriate, unenhanced data generated either by the Landsat system, pursuant to title III, or by licensees under title IV;

(6) include, as the Secretary considers appropriate, data collected by foreign ground stations or by foreign remote-sensing space systems; and

(7) ensure that the content of the archive is developed in accordance with section 607.

(d) Subject to the availability of appropriations, the Secretary shall request data needed for the basic data set and pay to the providing system operator reasonable costs for reproduction and transmission. A system operator shall promptly make requested data available in a form suitable for processing for archiving.

Marketing.

(e) Any system operator shall have the exclusive right to sell all data that the operator provides to the United States remote-sensing data archive for a period to be determined by the Secretary but not to exceed ten years from the date the data are sensed. In the case of data generated from the Landsat system prior to the implementation of the contract described in section 202(a), any contractor selected pursuant to section 202 shall have the exclusive right to market such data on behalf of the United States Government for the duration of such contract. A system operator may relinquish the exclusive right and consent to distribution from the archive before the period of exclusive right has expired by terminating the offer to sell particular data.

Public availability.

(f) After the expiration of such exclusive right to sell, or after relinquishment of such right, the data provided to the United States remote-sensing data archive shall be in the public domain and shall be made available to requesting parties by the Secretary at prices reflecting reasonable costs of reproduction and transmittal.

(g) In carrying out the functions of this section, the Secretary shall, to the extent practicable and as provided in advance by appropriation Acts, use existing Government facilities.

NONREPRODUCTION

15 USC 4273.

SEC. 603. Unenhanced data distributed by any system operator under the provisions of this Act may be sold on the condition that such data will not be reproduced or disseminated by the purchaser.

REIMBURSEMENT FOR ASSISTANCE

15 USC 4274.

SEC. 604. The Administrator of the National Aeronautics and Space Administration, the Secretary of Defense and the heads of other Federal agencies may provide assistance to system operators under the provisions of this Act. Substantial assistance shall be reimbursed by the operator, except as otherwise provided by law.

ACQUISITION OF EQUIPMENT

15 USC 4275.

SEC. 605. The Secretary may, by means of a competitive process, allow a licensee under title IV or any other private party to buy, lease, or otherwise acquire the use of equipment from the Landsat system, when such equipment is no longer needed for the operation of such system or for the sale of data from such system. Officials of other Federal civilian agencies are authorized and encouraged to cooperate with the Secretary in carrying out the provisions of this section.

RADIO FREQUENCY ALLOCATION

President of U.S.
15 USC 4276.

SEC. 606. (a) Within thirty days after the date of enactment of this Act, the President (or the President's delegee, if any, with authority over the assignment of frequencies to radio stations or classes of radio stations operated by the United States) shall make available for nongovernmental use spectrum presently allocated to Government use, for use by United States Landsat and commercial remote-sensing space systems. The spectrum to be so made available shall conform to any applicable international radio or wire treaty or convention, or regulations annexed thereto. Within ninety days thereafter, the Federal Communications Commission shall utilize appropriate procedures to authorize the use of such spectrum for nongovernmental use. Nothing in this section shall preclude the ability of the Commission to allocate additional spectrum to commercial land remote-sensing space satellite system use.

47 USC 609.

(b) To the extent required by the Communications Act of 1934, as amended (47 U.S.C. 151 et seq.), an application shall be filed with the Federal Communications Commission for any radio facilities involved with the commercial remote-sensing space system.

(c) It is the intent of Congress that the Federal Communications Commission complete the radio licensing process under the Communications Act of 1934, as amended (47 U.S.C. 151 et seq.), upon the application of any private sector party or consortium operator of any commercial land remote-sensing space system subject to this Act, within one hundred and twenty days of the receipt of an application for such licensing. If final action has not occurred within one hundred and twenty days of the receipt of such an application, the Federal Communications Commission shall inform the applicant of any pending issues and of actions required to resolve them.

(d) Authority shall not be required from the Federal Communications Commission for the development and construction of any United States land remote-sensing space system (or component thereof), other than radio transmitting facilities or components, while any licensing determination is being made.

(e) Frequency allocations made pursuant to this section by the Federal Communications Commission shall be consistent with international obligations and with the public interest.

CONSULTATION

Defense and national security.
15 USC 4277.

SEC. 607. (a) The Secretary shall consult with the Secretary of Defense on all matters under this Act affecting national security. The Secretary of Defense shall be responsible for determining those conditions, consistent with this Act, necessary to meet national security concerns of the United States and for notifying the Secretary promptly of such conditions.

(b)(1) The Secretary shall consult with the Secretary of State on all matters under this Act affecting international obligations. The Secretary of State shall be responsible for determining those conditions, consistent with this Act, necessary to meet international obligations and policies of the United States and for notifying the Secretary promptly of such conditions.

(2) Appropriate Federal agencies are authorized and encouraged to provide remote-sensing data, technology, and training to developing nations as a component of programs of international aid.

(3) The Secretary of State shall promptly report to the Secretary any instances outside the United States of discriminatory distribution of data.

(c) If, as a result of technical modifications imposed on a system operator on the basis of national security concerns, the Secretary, in consultation with the Secretary of Defense or with other Federal agencies, determines that additional costs will be incurred by the system operator, or that past development costs (including the cost of capital) will not be recovered by the system operator, the Secretary may require the agency or agencies requesting such technical modifications to reimburse the system operator for such additional or development costs, but not for anticipated profits. Reimbursements may cover costs associated with required changes in system performance, but not costs ordinarily associated with doing business abroad.

AMENDMENT TO NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION, 1983

15 USC 1517 note.

SEC. 608. Subsection (a) of section 201 of the National Aeronautics and Space Administration Authorization Act, 1983 (Public Law 97-324; 96 Stat. 1601) is amended to read as follows:

"(a) The Secretary of Commerce is authorized to plan and provide for the management and operation of civil remote-sensing space systems, which may include the Landsat 4 and 5 satellites and associated ground system equipment transferred from the National Aeronautics and Space Administration; to provide for user fees; and to plan for the transfer of the operation of civil remote-sensing space systems to the private sector when in the national interest.".

AUTHORIZATION OF APPROPRIATIONS

15 USC 4278.

SEC. 609. (a) There are authorized to be appropriated to the Secretary $75,000,000 for fiscal year 1985 for the purpose of carrying out the provisions of this Act. Such sums shall remain available until expended, but shall not become available until the time periods specified in sections 202(c) and 303(c) have expired.

(b) The authorization provided for under subsection (a) shall be in addition to moneys authorized pursuant to title II of the National Aeronautics and Space Administration Authorization Act, 1983.

15 USC 1517 note.

TITLE VII—PROHIBITION OF COMMERCIALIZATION OF WEATHER SATELLITES

PROHIBITION

President of U.S.
15 USC 4291.

SEC. 701. Neither the President nor any other official of the Government shall make any effort to lease, sell, or transfer to the private sector, commercialize, or in any way dismantle any portion of the weather satellite systems operated by the Department of Commerce or any successor agency.

FUTURE CONSIDERATIONS

SEC. 702. Regardless of any change in circumstances subsequent to the enactment of this Act, even if such change makes it appear to be in the national interest to commercialize weather satellites, neither the President nor any official shall take any action prohibited by section 701 unless this title has first been repealed. 15 USC 4292.

Approved July 17, 1984.

LEGISLATIVE HISTORY—H.R. 5155:

HOUSE REPORT No. 98-647 (Comm. on Science and Technology).
SENATE REPORT No. 98-458 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):
    Apr. 9, considered and passed House.
    June 8, considered and passed Senate, amended.
    June 28, House concurred in Senate amendment with an amendment.
    June 29, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 29 (1984):
    July 17, Presidential statement.

PUBLIC LAW 98-373—JULY 31, 1984

ARCTIC RESEARCH AND POLICY ACT OF 1984

Public Law 98-373
98th Congress

An Act

July 31, 1984
[S. 373]

To provide for a comprehensive national policy dealing with national research needs and objectives in the Arctic, for a National Critical Materials Council, for development of a continuing and comprehensive national materials policy, for programs necessary to carry out that policy, including Federal programs of advanced materials research and technology, and for innovation in basic materials industries, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Arctic Research and Policy Act of 1984.

TITLE I—ARCTIC RESEARCH AND POLICY

SHORT TITLE

15 USC 4101 note.

SEC. 101. This title may be cited as the "Arctic Research and Policy Act of 1984".

FINDINGS AND PURPOSES

15 USC 4101.

SEC. 102. (a) The Congress finds and declares that—

(1) the Arctic, onshore and offshore, contains vital energy resources that can reduce the Nation's dependence on foreign oil and improve the national balance of payments;

(2) as the Nation's only common border with the Soviet Union, the Arctic is critical to national defense;

(3) the renewable resources of the Arctic, specifically fish and other seafood, represent one of the Nation's greatest commercial assets;

(4) Arctic conditions directly affect global weather patterns and must be understood in order to promote better agricultural management throughout the United States;

(5) industrial pollution not originating in the Arctic region collects in the polar air mass, has the potential to disrupt global weather patterns, and must be controlled through international cooperation and consultation;

(6) the Arctic is a natural laboratory for research into human health and adaptation, physical and psychological, to climates of extreme cold and isolation and may provide information crucial for future defense needs;

(7) atmospheric conditions peculiar to the Arctic make the Arctic a unique testing ground for research into high latitude communications, which is likely to be crucial for future defense needs;

(8) Arctic marine technology is critical to cost-effective recovery and transportation of energy resources and to the national defense;

(9) the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively in the heavy ice regions of the Arctic;

(10) most Arctic-rim countries, particularly the Soviet Union, possess Arctic technologies far more advanced than those currently available in the United States;

(11) Federal Arctic research is fragmented and uncoordinated at the present time, leading to the neglect of certain areas of research and to unnecessary duplication of effort in other areas of research;

(12) improved logistical coordination and support for Arctic research and better dissemination of research data and information is necessary to increase the efficiency and utility of national Arctic research efforts;

(13) a comprehensive national policy and program plan to organize and fund currently neglected scientific research with respect to the Arctic is necessary to fulfill national objectives in Arctic research;

(14) the Federal Government, in cooperation with State and local governments, should focus its efforts on the collection and characterization of basic data related to biological, materials, geophysical, social, and behavioral phenomena in the Arctic;

(15) research into the long-range health, environmental, and social effects of development in the Arctic is necessary to mitigate the adverse consequences of that development to the land and its residents;

(16) Arctic research expands knowledge of the Arctic, which can enhance the lives of Arctic residents, increase opportunities for international cooperation among Arctic-rim countries, and facilitate the formulation of national policy for the Arctic; and

(17) the Alaskan Arctic provides an essential habitat for marine mammals, migratory waterfowl, and other forms of wildlife which are important to the Nation and which are essential to Arctic residents.

(b) The purposes of this title are—

(1) to establish national policy, priorities, and goals and to provide a Federal program plan for basic and applied scientific research with respect to the Arctic, including natural resources and materials, physical, biological and health sciences, and social and behavioral sciences;

(2) to establish an Arctic Research Commission to promote Arctic research and to recommend Arctic research policy;

(3) to designate the National Science Foundation as the lead agency responsible for implementing Arctic research policy; and

(4) to establish an Interagency Arctic Research Policy Committee to develop a national Arctic research policy and a five year plan to implement that policy.

ARCTIC RESEARCH COMMISSION

Establishment.

15 USC 4102.

SEC. 103. (a) The President shall establish an Arctic Research Commission (hereafter referred to as the "Commission").

(b)(1) The Commission shall be composed of five members appointed by the President, with the Director of the National Science Foundation serving as a nonvoting, ex officio member. The members appointed by the President shall include—

(A) three members appointed from among individuals from academic or other research institutions with expertise in areas of research relating to the Arctic, including the physical, biological, health, environmental, social, and behavioral sciences;

(B) one member appointed from among indigenous residents of the Arctic who are representative of the needs and interests of Arctic residents and who live in areas directly affected by Arctic resource development; and

(C) one member appointed from among individuals familiar with the Arctic and representative of the needs and interests of private industry undertaking resource development in the Arctic.

(2) The President shall designate one of the appointed members of the Commission to be chairperson of the Commission.

(c)(1) Except as provided in paragraph (2) of this subsection, the term of office of each member of the Commission appointed under subsection (b)(1) shall be four years.

(2) Of the members of the Commission originally appointed under subsection (b)(1)—

(A) one shall be appointed for a term of two years;

(B) two shall be appointed for a term of three years; and

(C) two shall be appointed for a term of four years.

(3) Any vacancy occurring in the membership of the Commission shall be filled, after notice of the vacancy is published in the Federal Register, in the manner provided by the preceding provisions of this section, for the remainder of the unexpired term.

(4) A member may serve after the expiration of the member's term of office until the President appoints a successor.

(5) A member may serve consecutive terms beyond the member's original appointment.

(d)(1) Members of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code. A member of the Commission not presently employed for compensation shall be compensated at a rate equal to the daily equivalent of the rate for GS-16 of the General Schedule under section 5332 of title 5, United States Code, for each day the member is engaged in the actual performance of his duties as a member of the Commission, not to exceed 90 days of service each year. Except for the purposes of chapter 81 of title 5 (relating to compensation for work injuries) and chapter 171 of title 28 (relating to tort claims), a member of the Commission shall not be considered an employee of the United States for any purpose.

5 USC 8101 *et seq.*
28 USC 2671 *et seq.*

(2) The Commission shall meet at the call of its Chairman or a majority of its members.

(3) Each Federal agency referred to in section 107(b) may designate a representative to participate as an observer with the Commission. These representatives shall report to and advise the Commission on the activities relating to Arctic research of their agencies.

Public meeting.

(4) The Commission shall conduct at least one public meeting in the State of Alaska annually.

DUTIES OF COMMISSION

15 USC 4103.

SEC. 104. (a) The Commission shall—

(1) develop and recommend an integrated national Arctic research policy;

(2) in cooperation with the Interagency Arctic Research Policy Committee established under section 107, assist in establishing a national Arctic research program plan to implement the Arctic research policy;

(3) facilitate cooperation between the Federal Government and State and local governments with respect to Arctic research;

(4) review Federal research programs in the Arctic and suggest improvements in coordination among programs;

(5) recommend methods to improve logistical planning and support for Arctic research as may be appropriate and in accordance with the findings and purposes of this title;

(6) suggest methods for improving efficient sharing and dissemination of data and information on the Arctic among interested public and private institutions;

(7) offer other recommendations and advice to the Interagency Committee established under section 107 as it may find appropriate; and

(8) cooperate with the Governor of the State of Alaska and with agencies and organizations of that State which the Governor may designate with respect to the formulation of Arctic research policy.

(b) Not later than January 31 of each year, the Commission shall—

(1) publish a statement of goals and objectives with respect to Arctic research to guide the Interagency Committee established under section 107 in the performance of its duties; and

(2) submit to the President and to the Congress a report describing the activities and accomplishments of the Commission during the immediately preceding fiscal year. Report.

COOPERATION WITH THE COMMISSION

15 USC 4104.

SEC. 105. (a)(1) The Commission may acquire from the head of any Federal agency unclassified data, reports, and other nonproprietary information with respect to Arctic research in the possession of the agency which the Commission considers useful in the discharge of its duties.

Confidentiality.

(2) Each agency shall cooperate with the Commission and furnish all data, reports, and other information requested by the Commission to the extent permitted by law; except that no agency need furnish any information which it is permitted to withhold under section 552 of title 5, United States Code.

(b) With the consent of the appropriate agency head, the Commission may utilize the facilities and services of any Federal agency to the extent that the facilities and services are needed for the establishment and development of an Arctic research policy, upon reimbursement to be agreed upon by the Commission and the agency head and taking every feasible step to avoid duplication of effort.

(c) All Federal agencies shall consult with the Commission before undertaking major Federal actions relating to Arctic research.

ADMINISTRATION OF THE COMMISSION

15 USC 4105.

SEC. 106. The Commission may—

5 USC 5331.

(1) in accordance with the civil service laws and subchapter III of chapter 53 of title 5, United States Code, appoint and fix the compensation of an Executive Director and necessary additional staff personnel, but not to exceed a total of seven compensated personnel;

(2) procure temporary and intermittent services as authorized by section 3109 of title 5, United States Code;

(3) enter into contracts and procure supplies, services, and personal property; and

(4) enter into agreements with the General Services Administration for the procurement of necessary financial and administrative services, for which payment shall be made by reimbursement from funds of the Commission in amounts to be agreed upon by the Commission and the Administrator of the General Services Administration.

LEAD AGENCY AND INTERAGENCY ARCTIC RESEARCH POLICY COMMITTEE

15 USC 4106. SEC. 107. (a) The National Science Foundation is designated as the lead agency responsible for implementing Arctic research policy, and the Director of the National Science Foundation shall insure that the requirements of section 108 are fulfilled.

Establishment. (b)(1) The President shall establish an Interagency Arctic Research Policy Committee (hereinafter referred to as the "Interagency Committee").

(2) The Interagency Committee shall be composed of representatives of the following Federal agencies or offices:

(A) the National Science Foundation;
(B) the Department of Commerce;
(C) the Department of Defense;
(D) the Department of Energy;
(E) the Department of the Interior;
(F) the Department of State;
(G) the Department of Transportation;
(H) the Department of Health and Human Services;
(I) the National Aeronautics and Space Administration;
(J) the Environmental Protection Agency; and
(K) any other agency or office deemed appropriate.

(3) The representative of the National Science Foundation shall serve as the Chairperson of the Interagency Committee.

DUTIES OF THE INTERAGENCY COMMITTEE

15 USC 4107. SEC. 108. (a) The Interagency Committee shall—

(1) survey Arctic research conducted by Federal, State, and local agencies, universities, and other public and private institutions to help determine priorities for future Arctic research, including natural resources and materials, physical and biological sciences, and social and behavioral sciences;

(2) work with the Commission to develop and establish an integrated national Arctic research policy that will guide Federal agencies in developing and implementing their research programs in the Arctic;

(3) consult with the Commission on—

(A) the development of the national Arctic research policy and the 5-year plan implementing the policy;

(B) Arctic research programs of Federal agencies;

(C) recommendations of the Commission on future Arctic research; and

(D) guidelines for Federal agencies for awarding and administering Arctic research grants;

(4) develop a 5-year plan to implement the national policy, as provided for in section 109;

(5) provide the necessary coordination, data, and assistance for the preparation of a single integrated, coherent, and multiagency budget request for Arctic research as provided for in section 110;

(6) facilitate cooperation between the Federal Government and State and local governments in Arctic research, and recommend the undertaking of neglected areas of research in accordance with the findings and purposes of this title;

(7) coordinate and promote cooperative Arctic scientific research programs with other nations, subject to the foreign policy guidance of the Secretary of State;

(8) cooperate with the Governor of the State of Alaska in fulfilling its responsibilities under this title;

(9) promote Federal interagency coordination of all Arctic research activities, including—

(A) logistical planning and coordination; and

(B) the sharing of data and information associated with Arctic research, subject to section 552 of title 5, United States Code; and

Public information.

(10) provide public notice of its meetings and an opportunity for the public to participate in the development and implementation of national Arctic research policy.

Report.

(b) Not later than January 31, 1986, and biennially thereafter, the Interagency Committee shall submit to the Congress through the President, a brief, concise report containing—

(1) a statement of the activities and accomplishments of the Interagency Committee since its last report; and

(2) a description of the activities of the Commission, detailing with particularity the recommendations of the Commission with respect to Federal activities in Arctic research.

5-YEAR ARCTIC RESEARCH PLAN

15 USC 4108.

SEC. 109. (a) The Interagency Committee, in consultation with the Commission, the Governor of the State of Alaska, the residents of the Arctic, the private sector, and public interest groups, shall prepare a comprehensive 5-year program plan (hereinafter referred to as the "Plan") for the overall Federal effort in Arctic research. The Plan shall be prepared and submitted to the President for transmittal to the Congress within one year after the enactment of this Act and shall be revised biennially thereafter.

(b) The Plan shall contain but need not be limited to the following elements:

(1) an assessment of national needs and problems regarding the Arctic and the research necessary to address those needs or problems;

(2) a statement of the goals and objectives of the Interagency Committee for national Arctic research;

(3) a detailed listing of all existing Federal programs relating to Arctic research, including the existing goals, funding levels for each of the 5 following fiscal years, and the funds currently being expended to conduct the programs;

(4) recommendations for necessary program changes and other proposals to meet the requirements of the policy and goals

as set forth by the Commission and in the Plan as currently in effect; and

(5) a description of the actions taken by the Interagency Committee to coordinate the budget review process in order to ensure interagency coordination and cooperation in (A) carrying out Federal Arctic research programs, and (B) eliminating unnecessary duplication of effort among these programs.

COORDINATION AND REVIEW OF BUDGET REQUESTS

15 USC 4109.

SEC. 110. (a) The Office of Science and Technology Policy shall—

(1) review all agency and department budget requests related to the Arctic transmitted pursuant to section 108(a)(5), in accordance with the national Arctic research policy and the 5-year program under section 108(a)(2) and section 109, respectively; and

(2) consult closely with the Interagency Committee and the Commission to guide the Office of Science and Technology Policy's efforts.

Report.

(b)(1) The Office of Management and Budget shall consider all Federal agency requests for research related to the Arctic as one integrated, coherent, and multiagency request which shall be reviewed by the Office of Management and Budget prior to submission of the President's annual budget request for its adherence to the Plan. The Commission shall, after submission of the President's annual budget request, review the request and report to Congress on adherence to the Plan.

(2) The Office of Management and Budget shall seek to facilitate planning for the design, procurement, maintenance, deployment, and operations of icebreakers needed to provide a platform for Arctic research by allocating all funds necessary to support icebreaking operations, except for recurring incremental costs associated with specific projects, to the Coast Guard.

AUTHORIZATION OF APPROPRIATIONS; NEW SPENDING AUTHORITY

15 USC 4110.

SEC. 111. (a) There are authorized to be appropriated such sums as may be necessary for carrying out this title.

2 USC 651.

(b) Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this title shall be effective for any fiscal year only to such extent or in such amounts as may be provided in appropriation Acts.

DEFINITION

15 USC 4111.

SEC. 112. As used in this title, the term "Arctic" means all United States and foreign territory north of the Arctic Circle and all United States territory north and west of the boundary formed by the Porcupine, Yukon, and Kuskokwim Rivers; all contiguous seas, including the Arctic Ocean and the Beaufort, Bering, and Chukchi Seas; and the Aleutian chain.

National Critical Materials Act of 1984.

TITLE II—NATIONAL CRITICAL MATERIALS ACT OF 1984

SHORT TITLE

30 USC 1801 note.

SEC. 201. This title may be cited as the "National Critical Materials Act of 1984".

FINDINGS AND PURPOSES

SEC. 202. (a) The Congress finds that— 30 USC 1801.

(1) the availability of adequate supplies of strategic and critical industrial minerals and materials continues to be essential for national security, economic well-being, and industrial production;

(2) the United States is increasingly dependent on foreign sources of materials and vulnerable to supply interruption in the case of many of those minerals and materials essential to the Nation's defense and economic well-being;

(3) together with increasing import dependence, the Nation's industrial base, including the capacity to process minerals and materials, is deteriorating—both in terms of facilities and in terms of a trained labor force;

(4) research, development, and technological innovation, especially related to improved materials and new processing technologies, are important factors which affect our long-term capability for economic competitiveness, as well as for adjustment to interruptions in supply of critical minerals and materials;

(5) while other nations have developed and implemented specific long-term research and technology programs to develop high-performance materials, no such policy and program evolution has occurred in the United States;

(6) establishing critical materials reserves, by both the public and private sectors and with proper organization and management, represents one means of responding to the genuine risks to our economy and national defense from dependency on foreign sources;

(7) there exists no single Federal entity with the authority and responsibility for establishing critical materials policy and for coordinating and implementing that policy; and

(8) the importance of materials to national goals requires an organizational means for establishing responsibilities for materials programs and for the coordination, within and at a suitably high level of the Executive Office of the President, with other existing policies within the Federal Government.

(b) It is the purpose of this title—

(1) to establish a National Critical Materials Council under and reporting to the Executive Office of the President which shall—

(A) establish responsibilities for and provide for necessary coordination of critical materials policies, including all facets of research and technology, among the various agencies and departments of the Federal Government, and make recommendations for the implementation of such policies;

(B) bring to the attention of the President, the Congress, and the general public such materials issues and concerns, including research and development, as are deemed critical to the economic and strategic health of the Nation; and

(C) ensure adequate and continuing consultation with the private sector concerning critical materials, materials research and development, use of materials, Federal materials policies, and related matters;

(2) to establish a national Federal program for advanced materials research and technology, including basic phenomena through processing and manufacturing technology; and

(3) to stimulate innovation and technology utilization in basic as well as advanced materials industries.

ESTABLISHMENT OF THE NATIONAL CRITICAL MATERIALS COUNCIL

30 USC 1802.

SEC. 203. There is hereby established a National Critical Materials Council (hereinafter referred to as the "Council") under and reporting to the Executive Office of the President. The Council shall be composed of three members who shall be appointed by the President and who shall serve at the pleasure of the President. Members so appointed who are not already Senate-confirmed officers of the Government shall be appointed by and with the advice and consent of the Senate. The President shall designate one of the members to serve as Chairman. Each member shall be a person who, as a result of training, experience, and achievement, is qualified to carry out the duties and functions of the Council, with particular emphasis placed on fields relating to materials policy or materials science and engineering. In addition, at least one of the members shall have a background in and understanding of environmentally related issues.

RESPONSIBILITIES AND AUTHORITIES OF THE COUNCIL

30 USC 1803.

SEC. 204. (a) It shall be the primary responsibility of the Council—

(1) to assist and advise the President in establishing coherent national materials policies consistent with other Federal policies, and making recommendations necessary to implement such policies;

(2) to assist in establishing responsibilities for, and to coordinate, Federal materials-related policies, programs, and research and technology activities, as well as recommending to the Office of Management and Budget budget priorities for materials activities in each of the Federal departments and agencies;

(3) to review and appraise the various programs and activities of the Federal Government in accordance with the policy and directions given in the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601), and to determine the extent to which such programs and activities are contributing to the achievement of such policy and directions;

(4) to monitor and evaluate the critical materials needs of basic and advanced technology industries and the Government, including the critical materials research and development needs of the private and public sectors;

(5) to advise the President of mineral and material trends, both domestic and foreign, the implications thereof for the United States and world economies and the national security, and the probable effects of such trends on domestic industries;

(6) to assess through consultation with the materials academic community the adequacy and quality of materials-related educational institutions and the supply of materials scientists and engineers;

(7) to make or furnish such studies, analyses, reports, and recommendations with respect to matters of materials-related policy and legislation as the President may request;

Report.

(8)(A) to prepare a report providing a domestic inventory of critical materials with projections on the prospective needs of Government and industry for these materials, including a long-range assessment, prepared in conjunction with the Office of

Science and Technology Policy in accordance with the National Materials and Minerals Policy, Research and Development Act of 1980, and in conjunction with such other Government departments or agencies as may be considered necessary, of the prospective major critical materials problems which the United States is likely to confront in the immediate years ahead and providing advice as to how these problems may best be addressed, with the first such report being due on April 1, 1985, and (B) review and update such report and assessment as appropriate and report thereon to the Congress at least biennially; and

30 USC 1601 note.

(9) to recommend to the Congress such changes in current policies, activities, and regulations of the Federal Government, and such legislation, as may be considered necessary to carry out the intent of this title and the National Materials and Minerals Policy, Research and Development Act of 1980.

(b) In carrying out its responsibilities under this section the Council shall have the authority—

Advisory panels and interagency committees.

(1) to establish such special advisory panels as it considers necessary, with each such panel consisting of representatives of industry, academia, and other members of the private sector, not to exceed ten members, and being limited in scope of subject and duration; and

(2) to establish and convene such Federal interagency committees as it considers necessary in carrying out the intent of this title.

(c) In seeking to achieve the goals of this title and related Acts, the Council and other Federal departments and agencies with responsibilities or jurisdiction related to materials or materials policy, including the National Security Council, the Council on Environmental Quality, the Office of Management and Budget, and the Office of Science and Technology Policy, shall work collaboratively and in close cooperation.

PROGRAM AND POLICY FOR ADVANCED MATERIALS RESEARCH AND TECHNOLOGY

SEC. 205. (a) In addition to the responsibilities described in section 204, the Council shall be responsible for coordination with appropriate agencies and departments of the Federal Government relative to Federal materials research and development policies and programs. Such policies and programs shall be consistent with the policies and goals described in the National Materials and Minerals Policy, Research and Development Act of 1980. In carrying out this responsibility the Council shall—

30 USC 1804.

(1)(A) establish a national Federal program plan for advanced materials research and development, recommend the designation of the key responsibilities for carrying out such research, and to provide for coordination of this plan with the Office of Science and Technology Policy, the Office of Management and Budget, and such other Federal offices and agencies as may be deemed appropriate, and (B) annually review such plan and report thereon to the Congress;

(2) review annually the materials research, development, and technology authorization requests and budgets of all Federal agencies and departments; and in this activity the Council shall make recommendations, in cooperation with the Office of Sci-

ence and Technology Policy, the Office of Management and Budget, and all other Federal offices and agencies deemed appropriate, to ensure close coordination of the goals and directions of such programs with the policies determined by the Council; and

(3) assist the Office of Science and Technology Policy in the preparation of such long-range materials assessments and reports as may be required by the National Materials and Minerals Policy, Research and Development Act of 1980, and assist other Federal entities in the preparation of analyses and reporting relating to critical and advanced materials.

30 USC 1601 note.

(b) The Office of Management and Budget, in reviewing the materials research, development, and technology authorization requests of the various Federal departments and agencies for any fiscal year, and the recommendations of the Council, shall consider all of such requests and recommendations as an integrated, coherent, multiagency request which shall be reviewed by the Office of Management and Budget for its adherence to the national Federal materials program plan in effect for such fiscal year under subsection (a).

INNOVATION IN BASIC AND ADVANCED MATERIALS INDUSTRIES

Centers for Industrial Technology. 30 USC 1805.

SEC. 206. (a)(1) In order to promote the use of more cost-effective, advanced technology and other means of providing for innovation and increased productivity within the basic and advanced materials industries, the Council shall evaluate and make recommendations regarding the establishment of Centers for Industrial Technology as provided in Public Law 96-480 (15 U.S.C. 3705).

(2) The activities of such Centers shall focus on, but not be limited to, the following generic materials areas: corrosion; welding and joining of materials; advanced processing and fabrication technologies; microfabrication; and fracture and fatigue.

(b) In order to promote better use and innovation of materials in design for improved safety or efficiency, the Council shall establish in cooperation with the appropriate Federal agencies and private industry, an effective mechanism for disseminating materials property data in an efficient and timely manner. In carrying out this responsibility, the Council shall consider, where appropriate, the establishment of a computerized system taking into account, to the maximum extent practicable, existing available resources.

COMPENSATION OF MEMBERS AND REIMBURSEMENTS

30 USC 1806.

SEC. 207. (a) The Chairman of the Council, if not otherwise a paid officer or employee of the Federal Government, shall be paid at the rate not to exceed the rate of basic pay provided for level II of the Executive Schedule. The other members of the Council, if not otherwise paid officers or employees of the Federal Government, shall be paid at a per diem rate comparable to the rate not to exceed the rate of basic pay provided for level III of the Executive Schedule.

(b) Subject to existing law and regulations governing conflicts of interest, the Council may accept reimbursement from any private nonprofit organization or from any department, agency, or instrumentality of the Federal Government, or from any State or local government, for reasonable travel expenses incurred by any member or employee of the Council in connection with such member's or employee's attendance at any conference, seminar, or similar meeting.

POSITION AND AUTHORITIES OF EXECUTIVE DIRECTOR

SEC. 208. (a) There shall be an Executive Director (hereinafter referred to as the "Director"), who shall be chief administrator of the Council. The Director shall be appointed by the Council full time and shall be paid at the rate not to exceed the rate of basic pay provided for level III of the Executive Schedule. 30 USC 1807.

(b) The Director is authorized—

(1) to employ such personnel as may be necessary for the Council to carry out its duties and functions under this title, but not to exceed twelve compensated employees;

(2) to obtain the services of experts and consultants in accordance with the provisions of section 3109 of title 5, United States Code; and

(3) to develop, subject to approval by the Council, rules and regulations necessary to carry out the purposes of this title.

(c) In exercising his responsibilities and duties under this title, the Director—

(1) may consult with representatives of academia, industry, labor, State and local governments, and other groups; and

(2) shall utilize to the fullest extent possible the services, facilities, and information (including statistical information) of public and private agencies, organizations, and individuals.

(d) Notwithstanding section 367(b) of the Revised Statutes (31 U.S.C. 665(b)), the Council may utilize voluntary and uncompensated labor and services in carrying out its duties and functions. 31 USC 1342.

RESPONSIBILITIES AND DUTIES OF THE DIRECTOR

SEC. 209. In carrying out his functions the Director shall assist and advise the Council on policies and programs of the Federal Government affecting critical and advanced materials by— 30 USC 1808.

(1) providing the professional and administrative staff and support for the Council;

(2) assisting the Federal agencies and departments in appraising the effectiveness of existing and proposed facilities, programs, policies, and activities of the Federal Government, including research and development, which affect critical materials availability and needs;

(3) cataloging, as fully as possible, research and development activities of the Government, private industry, and public and private institutions; and

(4) initiating Government and private studies and analyses, including those to be conducted by or under the auspices of the Council, designed to advance knowledge of critical or advanced materials issues and develop alternative proposals, including research and development, to resolve national critical materials problems.

AUTHORITY

SEC. 210. The Council is authorized— 30 USC 1809.

(1) to establish such internal rules and regulations as may be necessary for its operation; Regulations.

Contracts with U.S.

(2) to enter into contracts and acquire materials and supplies necessary for its operation to such extent or in such amounts as are provided for in appropriation Acts;

Public information.

(3) to publish, consistent with title 44 of the United States Code, or arrange to publish critical materials information that it deems to be useful to the public and private industry to the extent that such publication is consistent with the national defense and economic interest;

(4) to utilize such services or personnel as may be provided to the Council on a reimbursable basis by any agency of the United States; and

(5) to exercise such authorities as may be necessary and incidental to carrying out its responsibilities and duties under this title.

AUTHORIZATION OF APPROPRIATIONS

30 USC 1810.

SEC. 211. There are hereby authorized to be appropriated to carry out the provisions of this title a sum not to exceed $500,000 for the fiscal year ending September 30, 1985, and such sums as may be necessary thereafter: *Provided*, That the authority provided for in this title shall expire on September 30, 1990, unless otherwise authorized by Congress.

DEFINITION

30 USC 1811.

SEC. 212. As used in this title, the term "materials" has the meaning given it by section 2(b) of the National Materials and Minerals Policy, Research and Development Act of 1980.

30 USC 1601.

Approved July 31, 1984.

LEGISLATIVE HISTORY—S. 373:

HOUSE REPORTS No. 98-593, Pt. 1 (Comm. on Science and Technology) and Pt. 2 (Comm. on Merchant Marine and Fisheries).
SENATE REPORT No. 98-159 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 129 (1983): June 27, considered and passed Senate.
Vol. 130 (1984): Apr. 24, considered and passed House, amended.
June 21, Senate concurred in House amendments with amendment.
June 26, House concurred in Senate amendments.

Public Law 98-377
98th Congress

An Act

To provide assistance to improve elementary, secondary, and postsecondary education in mathematics and science; to provide a national policy for engineering, technical, and scientific personnel; to provide cost sharing by the private sector in training such personnel; to encourage creation of new engineering, technical, and scientific jobs; and for other purposes.

Aug. 11, 1984
[H.R. 1310]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Education for Economic Security Act".

Education for Economic Security Act.
20 USC 3901 note.

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to improve the quality of mathematics and science teaching and instruction in the United States.

20 USC 3901.

DEFINITIONS

SEC. 3. For the purpose of this Act—

20 USC 3902.

(1) The term "area vocational education school" has the same meaning given that term under section 195(2) of the Vocational Education Act of 1965.

20 USC 2461.

(2) The term "Director" means the Director of the National Science Foundation.

(3) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

20 USC 2854.

(4) The term "Governor" means the chief executive of a State.

(5) The term "Foundation" means the National Science Foundation.

(6) The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

20 USC 1141.

(7) The term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

20 USC 2854.

(8) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(9) The term "Secretary" means the Secretary of Education.

(10) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands.

(11) The term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

(12) The term "State educational agency" has the meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

20 USC 2854.

TITLE I—NATIONAL SCIENCE FOUNDATION MATHEMATICS AND SCIENCE PROGRAMS

PART A—TEACHER INSTITUTES

GRANTS FOR TEACHER INSTITUTES AUTHORIZED

20 USC 3911.

SEC. 101. The Foundation is authorized, in accordance with the provisions of this part, to make grants to State and local educational agencies and institutions of higher education, applying jointly, for the establishment and operation of teacher institutes for the enhancement of the subject matter skills of public and private elementary and secondary school teachers of mathematics and physical and life sciences.

APPLICATIONS

20 USC 3912.

SEC. 102. (a) Each local educational agency and institution of higher education, and each State educational agency and institution of higher education desiring to receive a grant under this part shall submit a joint application at such time, in such manner, and containing or accompanied by such information as the Director may require. One or more local educational agencies may apply jointly with one or more institutions of higher education under the provisions of this section. A State educational agency may apply jointly with one or more institutions of higher education.

(b) Each such application shall—

(1) describe the establishment and operation of a teacher institute for elementary and secondary school teachers of mathematics and physical and life sciences, including—

(A) the designation of the institute as a full-time summer or part-time school year, or both;

(B) a description of the courses of study to be offered at the institute;

(C) an estimate of the number of teachers, including the number of teachers from private elementary and secondary schools, to attend the institute and describe the selection procedures;

(D) the nature and location of existing facilities to be used in the operation of the institute;

(E) the teaching and administrative staff for the institute;

(F) the academic credits, if any, to be awarded for the completion of the courses of study to be offered at the institute; and

(G) a schedule of stipends to be paid teacher participants in the institute, including (i) allowances for subsistence and other expenses for teachers attending the institute and their dependents and (ii) provisions assuring that there will be no duplication of Federal benefits paid to participants;

(2) provide assurances that the design and operation of the institute will involve the participation of both the subject matter departments or divisions of each institution of higher education making application as well as the teacher education department or division, if any, of each such institution;

(3) provide for prior and continuing consultation with the State educational agency in the formulation and operation of the institute; and

(4) provide such additional assurances as the Director deems essential to assure compliance with the requirements of this part.

DISTRIBUTION OF ASSISTANCE

SEC. 113. (a) In approving applications under this part, the Director shall assure that there is an equitable distribution of institutes established and operated under approved applications among States and within States. The Director shall award not less than one institute in each State, except that the Director may waive the requirements of this sentence if there is no proposal from a State that meets the requirements of this part. 20 USC 3913.

(b) No grant to a single applicant may exceed $200,000 in any fiscal year.

COOPERATION WITH BUSINESS CONCERNS

SEC. 114. Institutes assisted under this part may, to the extent possible, involve the cooperation of advanced technology business concerns and other business concerns which are able to supply assistance in the teaching of mathematics and science. 20 USC 3914.

SPECIAL CONSIDERATION OF UNDERREPRESENTED AND UNDERSERVED POPULATIONS

SEC. 115. In providing financial assistance under this part the Foundation shall make every effort to ensure that consideration is given to applications which contain provisions designed to meet the needs of underrepresented and underserved populations. 20 USC 3915.

PART B—MATHEMATICS AND SCIENCE EDUCATION DEVELOPMENT PROGRAMS

PROGRAM AUTHORIZED

SEC. 121. The Foundation is authorized, in accordance with the provisions of this part, to enter into agreements with institutions of higher education or local educational agencies for— 20 USC 3921.

(1) developing and disseminating programs and materials for training, retraining, and inservice training for elementary and secondary school teachers in the fields of mathematics, science, including physical and life sciences, computer learning; and

(2) the research, development, and dissemination of instructional programs and materials for courses of study in elementary and secondary schools in the fields of mathematics, science, including physical and life sciences, and computer learning.

APPLICATIONS

SEC. 122. (a) No grant may be made under this part unless an eligible applicant, at such time, in such manner, and containing or accompanied by such information as the Director may reasonably require. Each application shall contain assurances— Grants. 20 USC 3922.

(1) that (A) in the case of an institution of higher education, the institution will enter into a cooperative agreement with one

or more local educational agencies, (B) in the case of a State or local educational agency, the agency will enter into a cooperative agreement with one or more institutions of higher education in the case of a profession of a society or association described in subsection (b)(3) the association or society will enter into a cooperative agreement with one or more local educational agencies and one or more institutions of higher education, for the purpose of furnishing the activities authorized by this part;

(2) that the planning and implementation of the cooperative agreement will involve the participation of both the subject matter departments or divisions of each institution of higher education as well as the teacher education department or division, if any, of each such institution; and

(3) that the applicant has consulted with, as appropriate, the State agency for higher education or the State educational agency in the development of the program for which assistance is sought, and will assure appropriate participation of such agencies in the program.

(b) For the purpose of this part an eligible applicant means—

(1) an institution of higher education,

(2) a State or local educational agency, and

(3) a professional society or association, in the fields of mathematics, physical or biological sciences, or engineering.

SPECIAL CONSIDERATION OF UNDERREPRESENTED AND UNDERSERVED POPULATIONS

20 USC 3923.

SEC. 123. In providing financial assistance under this part, the Foundation shall make every effort to ensure that consideration is given to applications which provide for the development and improvement of instructional programs and materials designed to meet the needs of underrepresented and underserved populations.

Congressional Merit Scholarships in Mathematics, Science, and Engineering Education.

PART C—CONGRESSIONAL MERIT SCHOLARSHIPS

SHORT TITLE

20 USC 3931 note.

SEC. 131. This part may be cited as the "Congressional Merit Scholarships in Mathematics, Science, and Engineering Education".

MERIT SCHOLARSHIPS ESTABLISHED

20 USC 3931.

SEC. 132. (a) The Foundation is authorized, in accordance with the provisions of this part, to award scholarships to individuals who are enrolled in institutions of higher education and who demonstrate outstanding potential for, and who plan to pursue, a career in teaching in the fields of mathematics, science, and engineering.

(b) Scholarships under this part shall be awarded for such period as the Foundation may prescribe, but for not to exceed four academic years.

(c)(1) A student awarded a scholarship under this part may attend any institution of higher education offering courses of study designed to prepare them for teaching careers. Such awards shall be available for periods of study commencing not sooner than the third undergraduate year.

(2) In order to be eligible for a scholarship under this part, each individual shall—

(A) concentrate, at the undergraduate level, in mathematics or science, and indicate a serious intent to teach at the elementary school level; or

(B) concentrate, at the undergraduate level, in mathematics or science, and indicate a serious intent to teach mathematics or science at the secondary school level; or

(C) concentrate, at the undergraduate level, in engineering and indicate a serious intent to teach at the postsecondary level, in an engineering discipline in which the Foundation has determined a shortage of qualified teachers.

(d) Not to exceed 25 per centum of the scholarships available under this part shall be available for students meeting the criteria of subsection (c)(2)(C).

SELECTION OF MERIT SCHOLARS

SEC. 133. (a) The Foundation shall establish criteria for the selection of merit scholars under this part. 20 USC 3932.

(b) The Foundation shall adopt selection procedures which are designed to assure that—

(1) the number of individuals to be selected will not exceed the product of the number of Members of Congress for each State, multiplied by two, and that the individuals will be selected from among the residents of each State (and in the case of the District of Columbia and the Commonwealth of Puerto Rico, not to exceed ten individuals will be selected); and

(2) each recipient of a merit scholarship will enter into an agreement with the Foundation under which the recipient will agree—

(A) to comply with provisions of paragraph (2) of section 142(c) relating to concentration of study; and *Ante*, p. 1270.

(B) to pursue a career in teaching, as prescribed in section 142(c) for not less than two years for each academic year in which a merit scholarship award is received.

STIPENDS AND SCHOLARSHIP CONDITIONS

SEC. 134. (a) Each student awarded a merit scholarship under this part shall receive an award of $5,000 for each academic year of study. 20 USC 3933.

(b) Each student awarded a merit scholarship under the provisions of this part shall continue to receive payments provided under this part for such scholarship only during such period as the Foundation determines that the student is maintaining satisfactory progress in, and devoting full time to, the course of study for which the scholarship is awarded.

(c) The Foundation is authorized to require reports containing such information in such form and to be filed at such time as the Foundation determines to be necessary from any student awarded a merit scholarship under the provisions of this part. Such reports shall be accompanied by a certificate from any appropriate official of the institution of higher education, approved by the Foundation, stating that such student is making satisfactory progress in, and is devoting essentially full time to, the study described in subsection (b).

PART D—DISCRETIONARY FUNDS OF THE DIRECTOR

AUTHORIZATION

Grants.
Contracts with U.S.
20 USC 3941.

SEC. 141. (a) From funds available for this part, the Director is authorized to make grants to and to enter into contracts with any public agency or any private organization to carry out any activity authorized by this title. In addition, from such funds, the Director is authorized, directly or by way of grant or contract, to conduct—

(1) a faculty exchange program between institutions of higher education (particularly institutions having established and nationally recognized research facilities) and eligible institutions; and

(2) programs of national significance promoting the improvement of instruction in the fields of mathematics, science, and engineering.

In carrying out the provisions of this part, the Director shall give special consideration to programs and activities for women in science and minorities in science which have been assisted by the Foundation prior to the date of enactment of this Act.

(b) For the purpose of this section the term "eligible institution" means an institution of higher education in any State which—

(1)(A) has an enrollment which includes a substantial percentage of students who are members of a minority group or who are economically or educationally disadvantaged; or

(B) is located in a community that is not within commuting distance of a major institution of higher education; and

(2) demonstrates a commitment to meet the special educational needs of students who are members of a minority group or are economically or educationally disadvantaged.

PART E—GENERAL PROVISIONS

ADMINISTRATIVE PROVISIONS

20 USC 3951.

SEC. 161. (a) In order to carry out the provisions of this title, the Foundation is authorized to—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this title, except that in no case shall employees be compensated at a rate to exceed the rate provided for employees in grade GS-18 of the General Schedule set forth in section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 of section 5332 of such title;

(3) prescribe such regulations as it deems necessary governing the manner in which its functions shall be carried out;

(4) receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of this Act; and to use, sell, or otherwise dispose of such property for the purpose of carrying out the functions of the Foundation under this Act;

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses,

including per diem, as authorized by section 5703 of title 5, United States Code;

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this title, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the National Science Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

Contracts with U.S.
Grants.

(7) make advances, progress, and other payments which the Board deems necessary under this title without regard to the provisions of section 3324 of title 31, United States Code; and

(8) make other necessary expenditures.

(b) The Foundation shall submit to the President and to the Congress an annual report of its operations under this title.

Report.

PARTICIPATION OF TEACHERS FROM PRIVATE SCHOOLS

Sec. 162. The Foundation shall, after consultation with appropriate private school representatives, make provision for the benefit of teachers in private elementary and secondary schools in the programs authorized by this title, in order to assure equitable participation of such teachers.

20 USC 3952.

PROHIBITION AGAINST FEDERAL CONTROL OF EDUCATION

Sec. 163. The provisions of section 432 of the General Education Provisions Act, relating to prohibition against Federal control of education, shall apply to each program authorized by this title.

20 USC 3953.
20 USC 1232a.

AUTHORIZATION OF APPROPRIATIONS

Sec. 164. (a) There are authorized to be appropriated $20,000,000 for each of the fiscal years 1984 and 1985 to carry out the provisions of part A of this title.

20 USC 3954.

(b) There are authorized to be appropriated $20,000,000 for the fiscal year 1985 to carry out the provisions of part B of this title.

(c) There are authorized to be appropriated $5,000,000 for the fiscal year 1984 and $15,000,000 for the fiscal year 1985 to carry out the provisions of part C of this title.

(d) There are authorized to be appropriated $3,000,000 for the fiscal year 1985 to carry out the provisions of part D of this title.

(e) There are authorized to be appropriated to the Foundation $20,000,000 for the fiscal year 1984 and $21,000,000 for the fiscal year 1985 to carry out the graduate fellowship program under the National Science Foundation Act of 1950.

42 USC 1861 note.

TITLE II—EDUCATION FOR ECONOMIC SECURITY

STATEMENT OF PURPOSE

Sec. 201. It is the purpose of this title to make financial assistance available to State and local educational agencies, and to institutions of higher education, to improve the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages, and to increase the access of all students to such instruction, and thereby contribute to strengthening the economic security of the United States.

20 USC 3961.

DEFINITION

20 USC 3962.

SEC. 202. As used in this title, the term "junior or community college" means an institution of higher education—

(1) that admits as regular students individuals who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution;

(2) that does not provide an educational program for which it awards a bachelor's degree (or an equivalent degree); and

(3) that—

(A) provides an educational program of not less than two years that is acceptable for full credit toward such a degree, or

(B) offers a two-year program designed to prepare a student to work as a technician or at the semiprofessional level in engineering, scientific, or other technological fields requiring the understanding and application of basic engineering, scientific, or mathematical principles of knowledge.

PROGRAM AUTHORIZED

Grants.
20 USC 3963.

SEC. 203. (a) The Secretary is authorized to make grants to States and to make discretionary grants, in accordance with the provisions of this title, for strengthening the skills of teachers and instruction in mathematics, science, computer learning, and foreign languages.

Appropriations authorization.

(b) There are authorized to be appropriated $350,000,000 for the fiscal year 1984, and $400,000,000 for the fiscal year 1985 to carry out the provisions of this title.

ALLOTMENT TO STATES

20 USC 3964.

SEC. 204. (a)(1) From 90 per centum of the amount appropriated to carry out this title for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to such 90 per centum as the number of children aged five to seventeen, inclusive, in the State bears to the number of such children in all States, except that no State shall receive less than one-half of 1 per centum of the amount available under this subsection in any fiscal year.

(2) The Secretary shall reserve the remaining 10 per centum to carry out section 212, relating to discretionary grants of national significance.

(3) For the purpose of this subsection, the term "State" does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(4) The number of children aged five to seventeen, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to him.

(b) The amount of any State's allotment under subsection (a) for any fiscal year to carry out this title which the Secretary determines will not be required for that fiscal year to carry out this title shall be available for reallotment from time to time, on such dates during that year as the Secretary may fix, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

Appropriations authorization.

(c) There are authorized to be appropriated for each fiscal year for the purpose of this subsection amounts equal to not more than 1 per centum of the amount appropriated for such year under this title. The Secretary shall allot the amount appropriated pursuant to this subsection among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title. In addition for each fiscal year the Secretary shall allot from not less than one-half of such amount, to such agency as the Secretary deems appropriate, for programs authorized by this title for children in elementary and secondary schools operated for Indian children by the Department of the Interior. The terms upon which payments are made under the previous sentence shall be determined by such criteria as the Secretary determines will best carry out the purpose of this title.

Indians.

IN-STATE APPORTIONMENT

20 USC 3965.

SEC. 205. (a) For each of the fiscal years 1984 and 1985, 70 per centum of each State's allotment under section 204 of this title shall be used for elementary and secondary education programs in accordance with section 206.

(b) For each of the fiscal years 1984 and 1985, 30 per centum of each State's allotment under section 204 of this title shall be used for higher education programs in accordance with section 207.

ELEMENTARY AND SECONDARY EDUCATION PROGRAMS

20 USC 3966.

SEC. 206. (a) The amount apportioned under section 205(a) from each State's allotment under this title shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

(b)(1) Not less than 70 per centum of the amount available under this section shall be distributed to local educational agencies within the State. Each local educational agency shall use funds distributed under this paragraph for—

(A) the expansion and improvement of inservice training and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study the teachers teach; or

(B) if the local educational agency determines that the agency has met its need for such training and retraining and subject to the provisions of section 210(c), computer learning and instruction, foreign language instruction, and instructional materials and equipment related to mathematics and science instruction.

Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit private organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of inservice training and retraining will take into account the need for greater access to and participation in mathematics, science, and computer learning programs and careers of students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the handicapped, and migrants.

Minorities.
Handicapped persons.
Migrants.

(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies within the State according to the relative number of children enrolled in public and nonpublic schools within the school districts of such agencies.

(B) The State educational agency shall distribute 50 per centum of the funds available under this subsection based on the relative number of children aged five to seventeen who—

Disadvantaged persons.
20 USC 2711.

(i) are from families below the poverty level as determined under section 111(c)(2)(A) of the Elementary and Secondary Education Act of 1965; and

(ii) are from families above the poverty level as determined under section 111(c)(2)(B) of the Elementary and Secondary Education Act of 1965;

in the public schools of the local educational agencies within the State.

(3) The State educational agency shall renew payments to local educational agencies under this subsection based upon the criteria set forth in paragraph (2) of this subsection and a determination by the State educational agency that the local educational agency is implementing the program assisted under this title so that a substantial number of teachers in the public and private schools in the school district of such agency are served and several grade levels of instruction in such schools are involved in the program.

(c)(1) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 30 per centum of the funds available to the local educational agency under subsection (b) may be used for the purchase of computer and computer-related instructional equipment.

(2) If a local educational agency is spending funds under subsection (b)(1)(B), not to exceed 15 per centum of the funds available to the local educational agency under subsection (b) may be used to strengthen instruction in foreign languages.

(d) Not less than 20 per centum of the amount available under this section shall be used by the State educational agency for demonstration and exemplary programs for—

(1) teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science, foreign language instruction, and computer learning,

(2) instructional equipment and materials in such fields and necessary technical assistance,

(3) special projects for historically underrepresented and underserved populations and for gifted and talented students, and

(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics, science, foreign languages, and computer learning.

Minorities. Handicapped persons. Migrants.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall reserve not less than 20 per centum of the amount available under this subsection for special projects in mathematics and science, foreign languages, and computer education to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

(e) Not less than 5 per centum of the amount available under this section may be used by the State educational agency to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified under subsection (b).

(f) Not to exceed 5 per centum of the amount available under this section may be used by the State educational agency for—

(1) the State assessment required by section 208 of this title; and

(2) the costs of administration and evaluation of the program assisted under this title.

HIGHER EDUCATION PROGRAMS

20 USC 3967.

SEC. 207. (a) The amount apportioned under section 205(b) from each State's allotment under this title shall be used by the State agency for higher education for higher education programs in accordance with the provisions of this section.

(b)(1)(A) Not less than 75 per centum of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

(2) The amount available under this subsection shall be used for—

(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics and science to specialize in the teaching of mathematics, science, or computer learning, including provision of stipends for participation in institutes authorized under title I; and

(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics and science, and computer learning, including stipends for participation in institutes authorized under title I.

Minorities. Handicapped persons. Migrants.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics, science, and computer learning and careers of students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented.

(3) No institution of higher education may receive assistance under paragraphs (2) (B) and (C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

(c)(1) Not less than 20 per centum of the amount available under this section shall be used by the State agency for higher education for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and private nonprofit organizations, including museums, libraries, educational television stations, and professional mathematics, science, and engineering societies and associations for the development and dissemination of projects designed to improve student understanding and performance in science, mathematics, and critical foreign languages. In carrying out this subsection, the State agency for higher education shall give special consideration to programs involving consortial arrangements which include local educational agencies.

Post, p. 1281.

(2) For the purpose of paragraph (1) of this subsection, critical foreign languages include foreign languages designated by the Secretary pursuant to section 211(d).

(d) Not to exceed 5 per centum of the amount available under this section may be used by the State agency for higher education for—

(1) the State assessment required by section 208 of this title; and

(2) the costs of administration and evaluation of the program assisted under this title incurred by the State higher education agency.

STATE ASSESSMENT OF MATHEMATICS, SCIENCE, FOREIGN LANGUAGES, AND COMPUTER LEARNING

Grants.
20 USC 3968.

Public availability.

SEC. 208. (a) Each State which desires to receive grants under this title shall prepare not later than nine months following the date for which funds under this title become available, a preliminary assessment of the status of mathematics, science, foreign language, and computer learning within the State. Such preliminary assessment shall be made available to all local educational agencies within the State to assist the local educational agencies to carry out the requirements of section 210. A final version of such assessment shall be submitted to the Secretary not later than the end of the first year for which funds under this title are made available. Each first assessment shall be prepared after an examination of the local assessments submitted under section 210. Each such assessment shall include a description and a five-year projection of—

(1) the availability of qualified mathematics, science, foreign language, and computer learning teachers at the secondary and postsecondary education levels within the State;

(2) the qualifications of teachers in mathematics, science, foreign languages, and computer learning at the secondary and postsecondary education levels, and the qualifications of teach-

ers at the elementary level to teach mathematics, science, foreign languages, and computer learning;

(3) the State standards for teacher certification, including any special exceptions currently made, for teachers of mathematics, science, foreign languages, and computer learning;

(4) the availability of adequate curricula, instructional materials and equipment, in mathematics, science, foreign languages, and computer learning; and

(5) the degree of access to instruction in mathematics, science, foreign languages, and computer learning of historically underrepresented and underserved individuals and of the gifted and talented.

(b) Each such assessment shall also describe the programs, initiatives, and resources committed or projected to be undertaken within the State to—

(1) improve teacher recruitment and retention;

(2) improve teacher qualifications and skills in the fields of mathematics, science, foreign languages, and computer and computer learning;

(3) improve curricula in mathematics, science, foreign languages, and computer learning including instructional materials and equipment; and

(4) improve access for historically underrepresented and underserved populations, and for the gifted and talented, to instruction in mathematics, science, foreign languages, and computer learning.

(c)(1) Each State assessment shall be developed in consultation with the Governor, the State legislature, State Board of Education, local educational agencies within the State, and representatives of—

(A) vocational secondary schools and area vocational education schools,

(B) public and private institutions of higher education,

(C) teacher organizations,

(D) private industry,

(E) other public organizations, including libraries, museums, and educational television stations, and professional scientific and mathematics associations, and

(F) private elementary and secondary schools,

within the State.

(2) Each State assessment shall be submitted jointly by the State educational agency and the State agency for higher education.

STATE APPLICATION

Grants.
20 USC 3969.

SEC. 209. (a) Each State which desires to receive grants under this title shall file an application with the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

(b) Each such application shall—

(1) designate the State educational agency for the purpose of programs described in section 206, and the State agency for higher education for programs described in section 207 as the agency or agencies responsible for the administration and supervision of the programs described in sections 207 and 208, as the case may be;

(2) describe the programs for which assistance is sought under the application;

(3) provide assurances that payments will be distributed by the State in accordance with the provisions of sections 207 and 208, as the case may be;

(4) provide procedures—

(A) for submitting applications by local educational agencies, institutions of higher education, junior or community colleges, and other organizations for programs described in section 206 for distribution of payments under this title within the State, and

(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that the appropriate State agency will not disapprove an application without notice and opportunity for a hearing;

(5) provide assurances that—

(A) the State will prepare and submit the assessment required under section 208;

(B) in the second year for which funds are available under this title, the State will use funds for purposes consistent with the findings of the State assessment under section 208;

(C) for programs described in section 206, the provisions of sections 210 and 211 will be carried out; and

(D) to the extent feasible, evaluations of the program assisted under this title will be performed;

(6) provide assurances that Federal funds made available under this title for any fiscal year will be so used as to supplement, and to the extent practicable, to increase the level of funds that would, in the absence of such funds, be available for the purposes described in sections 207 and 208, and in no case supplant such funds; and

(7) provide such fiscal control and accounting procedures as may be necessary (A) to ensure proper accounting of Federal funds paid to the applicant under this title, and (B) to ensure the verification of the programs assisted under the application.

(c) The Secretary shall expeditiously approve any State plan that meets the requirements of this section.

LOCAL EDUCATIONAL AGENCY ASSESSMENT

20 USC 3970.

SEC. 210. (a) Each local educational agency which desires to receive a payment from the State educational agency pursuant to section 206 shall provide to the State educational agency an assessment of the local educational agency's need for assistance in—

(1) teacher training, retraining, and inservice training and the training of appropriate school personnel in the areas of mathematics, science, foreign languages, and computer learning, including a description of the availability and qualifications of teachers in the areas of mathematics, science, foreign language, and computer learning, including the qualifications of teachers at the elementary level to teach in such areas;

(2) improving instructional materials and equipment related to mathematics and science education; and

(3) improving the access to instruction in mathemactics, science, foreign languages, and computer learning of historically underserved and underrepresented individuals and of the gifted and talented, and an assessment of the current degree of access to such instruction of such individuals.

(b) Such assessment shall also describe the types of services to be provided pursuant to the program assisted under section 206, a description of how the services assisted will meet the program needs of the local educational agency, and in the second year for which funds under this title are made available, a description of how the services assisted will address unmet needs described under section 208.

(c) If a local educational agency determines, pursuant to section 206(b)(1), that the agency has met its teacher retraining and inservice training needs in mathematics and science and desires to expend its funds on other activities prescribed in section 206(b)(1)(B), the local educational agency may request the State educational agency to waive such training requirements. If the State educational agency determines that the local educational agency has met such teacher training needs, the State educational agency shall grant the waiver.

PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS

20 USC 3971.

SEC. 211. (a) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

(b) To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private elementary and secondary schools, such State, State educational agency, or State agency for higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this title.

(c) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children or teachers from private schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with sections 557(b) (3) and (4) of the Education Consolidation and Improvement Act of 1981.

20 USC 3806.

SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

Grants.
20 USC 3972.

SEC. 212. (a) From 10 per centum of amounts appropriated under section 203(b), the Secretary shall make grants in accordance with this section.

Grants.

(b)(1) From 75 per centum of the amount available under this section in each fiscal year, the Secretary shall make grants to State and local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations for programs of national significance in mathematics and science instruction, computer learning, and foreign language instruction in critical languages. The Secretary shall give special consideration to provide assistance to local educational agencies, or consortia thereof, to establish or improve magnet schools for gifted and talented students. In awarding of grants the Secretary shall give special consideration to local educational agencies, institutions of higher education, and private nonprofit organizations, including museums, libraries, educational television stations, and professional science, mathematics, and engineering societies and associations providing special services to historically underserved and underrepresented populations in the fields of mathematics and science.

Grants.

Research and development.

(2) The Secretary, from the amount available under paragraph (1) for each fiscal year, shall reserve not to exceed $3,000,000 in each such year for the Director of the National Institute of Education for the purpose of conducting evaluation and research activities. Such evaluation and research activities shall include—

(A) a policy analysis of alternative methods to improve instruction in mathematics and science;

(B) an annual evaluation of the programs assisted under this title; and

(C) research on improving teacher training, retraining, inservice training, and retention, as well as the development of curriculum and materials in the fields of mathematics and science.

One-half of the funds reserved under this paragraph shall be used for the research activities described in clause (C).

(c) From 25 per centum of the amount available in each fiscal year, the Secretary shall make grants to institutions of higher education for the improvement and expansion of instruction in critical foreign languages.

(d) In determining which languages are critical to national security, economic, and scientific needs, the Secretary shall consult with the Secretary of State, the Secretary of Defense, the Secretary of Health and Human Services, and the Director of the National Science Foundation. The Secretary shall publish in the Federal Register a list of critical foreign languages.

Federal Register, publication.

PAYMENTS

20 USC 3973.

Sec. 213. (a) From the amounts appropriated under section 203(b), the Secretary shall pay, in accordance with the provisions of this title, the costs of the programs and activities described in the application approved under section 209, and the costs of programs of national significance under section 211.

(b) Payments under this title shall be made as soon after approval of the application as practicable.

TITLE III—NATIONAL SCIENCE FOUNDATION PROGRAM FOR PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

Partnerships in Education for Mathematics, Science, and Engineering Act.

SHORT TITLE

SEC. 301. This title may be cited as the "Partnerships in Education for Mathematics, Science, and Engineering Act". 20 USC 3981 note.

STATEMENT OF PURPOSE

SEC. 302. It is the purpose of this title to supplement State and local resources to— 20 USC 3981.

(1) improve the quality of instruction in the fields of mathematics, science, and engineering in the State;

(2) furnish additional resources and support for research, student scholarships, and faculty exchange programs in the fields of mathematics, science, and engineering; and

(3) encourage partnerships in education between the business community, institutions of higher education, and elementary and secondary schools in the community. Business and industry.

DEFINITIONS

SEC. 303. As used in this title— 20 USC 3982.

(1) the term "applicant" means with respect to activities described in section 305(a) an institution of higher education and the other participants described in paragraph (3) of section 305(a), and with respect to activities described in section 305(b) a local educational agency and the other participants described in paragraph (3) of section 305(b);

(2) the term "equipment" includes machinery, utilities, and built-in equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials;

(3) the term "Foundation" means the National Science Foundation;

(4) the term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; 20 USC 1141.

(5) the term "States" includes the fifty States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands; and

(6) the term "State agency for higher education" means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

PROGRAM AUTHORIZED

Grants.
20 USC 3983.

SEC. 304. (a) The Foundation is authorized, in accordance with the provisions of this title, to make grants to applicants to pay the Federal share of the costs of the activities described in section 305.

Appropriations authorization.

(b) There are authorized to be appropriated $30,000,000 for the fiscal year 1984, and $60,000,000 for the fiscal year 1985, to carry out the provisions of this title.

AUTHORIZED ACTIVITIES

20 USC 3984.

SEC. 305. (a)(1) An applicant may use payments received under this title in any fiscal year for higher education programs and activities described in this subsection.

(2) Grants under this subsection may be used for partnership in education programs—

(A) for the improvement of instruction in mathematics, science, computer science, and engineering education at the postsecondary level;

(B) for awarding scholarships to students at institutions of higher education in the fields of mathematics, science, computer science, and engineering;

Business and industry.

(C) for the operation of faculty exchange programs by the institutions of higher education and business concerns within the State;

(D) for research in the fields of mathematics, science, computer science, and engineering;

(E) for the acquisition, rehabilitation, and renovation of equipment and instrumentation for use in instruction in the fields of mathematics, science, computer science, and engineering; and

(F) to promote public understanding of science, mathematics, and computer science.

(3) Education partnerships under this subsection may include institutions of higher education, business concerns, nonprofit private organizations, local educational agencies, professional mathematic and scientific associations, museums, libraries, educational television stations, and if the State so desires, appropriate State agencies.

(b)(1) An applicant may use payments received under this title in any fiscal year for programs and activities described in this subsection.

Business and industry.

(2) A local educational agency may carry out an elementary and secondary school partnership in education program under which—

(A) elementary and secondary school teachers in the schools of local educational agencies who teach mathematics, science, or computer science are made available to local business concerns and business concerns with establishments located in the community to serve in such concerns or establishments;

(B) personnel of local business concerns and business concerns with establishments located in the community serve as consultants, lecturers, teaching assistants, or teachers of mathematics, science, or computer science in the elementary and secondary schools within the State;

(C) training and retraining is furnished to elementary and secondary school teachers of mathematics, science, and computer science under a cooperative arrangement between the

State or local educational agency and appropriate business concerns;

(D) secondary school students observe, participate, and work in local business concerns and business concerns with establishments located in the community; and

(E) computer clubs and extracurricular activities involving modern technologies are established in elementary and secondary schools.

(3) Partnerships under this subsection may include local educational agencies, business concerns, nonprofit private organizations, institutions of higher education, professional mathematic and scientific associations, museums, libraries, educational television stations, and, if the State so desires, appropriate State agencies.

Business and industry.

APPLICATION

SEC. 306. (a) Any applicant which desires to receive a grant under this title shall submit an application approved under section 307 to the Foundation, at such time, in such manner, and accompanied by such additional information as the Foundation may reasonably require. Each such application shall—

Grants.
20 USC 3985.

(1) describe the activities for which assistance under this title is sought;

(2) provide assurances that not more than 5 per centum of the amount received by the applicant in any fiscal year may be expended on administrative expenses;

(3) with respect to each program for which assistance is sought, provide assurances that—

(A) 30 per centum of the funds for each such project will be furnished by business concerns within the community;

(B) 20 per centum of the funds will be supplied by—

(i) the State,

(ii) the institution of higher education or the local educational agency, as the case may be, participating in the program; and

(iii) the other parties participating in the program;

(C) no stipend will be paid directly to employees of a profitmaking business concern; and

(D) teachers participating in the exchange program may not be employed by the participating business concern with which the teacher served within three years after the end of the exchange program unless the teacher repays the full cost of the exchange program to the State and local educational agency, as the case may be; and

(4) provide assurances that whenever the program for which assistance is sought includes scholarships, the scholarships be awarded to undergraduate students at institutions of higher education within the State who wish to pursue a course of study in mathematics or science, engineering or computer science, and that each student awarded a scholarship under this title will receive a stipend which shall not exceed the cost of tuition at the institution of higher education plus a stipend of not to exceed $750 for each academic year of study for which the scholarship is awarded;

(5) set forth policies and procedures to assure that whenever the application includes a local educational agency, to the extent consistent with the number and location of children in

the school district of such agency who are enrolled in private elementary and secondary schools, provision is made for the participation of such children in the program assisted under this title;

(6) provide assurances that consideration is given to programs and activities designed to meet the needs of underrepresented and underserved populations;

(7) provide assurances that in the consideration of applications submitted under section 307(a) that equitable consideration is given to applications submitted by private and public institutions of higher education; and

(8) provide such additional assurances as the Foundation determines essential to ensure compliance with the requirements of this title.

(b) A regional consortium of applicants in two or more States may file a joint application under the provisions of subsection (a) of this section.

SUBMISSION OF APPLICATIONS

Grants.
20 USC 3986.

SEC. 307. Each applicant within a State which desires to receive a grant under this title shall submit the application prepared in accordance with section 306 to the State agency on higher education or the State educational agency, as the case may be, for approval and shall submit the approved application to the Foundation under section 306. Each such application shall be submitted jointly by the local educational agency in the case of activities described in section 305(a), or an institution of higher education in the case of activities described in section 305(b), and each business concern or other party that is to participate in the program for which assistance is sought.

APPROVAL OF APPLICATIONS

20 USC 3987.

SEC. 308. (a)(1) The Foundation shall establish criteria for approval of applications under this title.

(2) No application may be approved by the Foundation unless the State educational agency or the State agency for higher education, as the case may be, determines that the application is consistent with State plans for elementary and secondary education or State plans for higher education, as the case may be, in the State.

(b) The Foundation shall adopt approval procedures designed to assure that there is equitable distribution of grants among the States.

PAYMENTS; FEDERAL SHARE; LIMITATION

20 USC 3988.

SEC. 309. (a)(1) The Foundation shall pay, to each applicant having an application approved under section 308, the Federal share of the cost of the program described in the application.

(2) The Federal share for each fiscal year shall be 50 per centum.

(3) The non-Federal share of payments under this title may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

(b) Not more than 15 per centum of the funds appropriated under this title in any fiscal year may be paid to applicants in any single State.

TITLE IV—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE

PRESIDENTIAL AWARDS

President of U.S. 20 USC 4001.

SEC. 401. (a) The President is authorized to make Presidential Awards for Teaching Excellence in Mathematics and Science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

(b) Each year the President is authorized to make one hundred awards under subsection (a) of this section. In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

ADMINISTRATIVE PROVISIONS

President of U.S. 20 USC 4002.

SEC. 402. The President shall carry out the provisions of this title, including the establishment of the selection procedures, after consultation with the Secretary of Education, the Director of the National Science Foundation, and other appropriate officials of Federal agencies.

AUTHORIZATION OF APPROPRIATIONS

20 USC 4003.

SEC. 403. (a) There are authorized to be appropriated $1,000,000 for the fiscal year 1985 to carry out the provisions of this title.

(b) Amounts appropriated pursuant to subsection (a) shall be available for making awards under this title, for administrative expenses, for necessary travel by teachers selected under this title, and for special activities related to carrying out the provisions of this title.

TITLE V—ASBESTOS SCHOOL HAZARD ABATEMENT

Asbestos School Hazard Abatement Act of 1984. 20 USC 4011 note.

SEC. 501. This title may be cited as the "Asbestos School Hazard Abatement Act of 1984".

FINDINGS AND PURPOSES

Congress. 20 USC 4011.

SEC. 502. (a) The Congress finds that—

(1) exposure to asbestos fibers has been identified over a long period of time and by reputable medical and scientific evidence as significantly increasing the incidence of cancer and other severe or fatal diseases, such as asbestosis;

(2) medical evidence has suggested that children may be particularly vulnerable to environmentally induced cancers;

(3) medical science has not established any minimum level of exposure to asbestos fibers which is considered to be safe to individuals exposed to the fibers;

(4) substantial amounts of asbestos, particularly in sprayed form, have been used in school buildings, especially during the period 1946 through 1972;

(5) partial surveys in some States have indicated that (A) in a number of school buildings materials containing asbestos fibers have become damaged or friable, causing asbestos fibers to be

dislodged into the air, and (B) asbestos concentration far exceeding normal ambient air levels have been found in school buildings containing such damaged materials;

(6) the presence in school buildings of friable or easily damaged asbestos creates an unwarranted hazard to the health of the school children and school employees who are exposed to such materials;

(7) the Department of Health and Human Services and the Environmental Protection Agency, as well as several States, have attempted to publicize the potential hazards to school children and employees from exposure to asbestos fibers, but there is no systematic program for remedying hazardous conditions in schools;

(8) because there is no Federal health standard regulating the concentration of asbestos fibers in noncommercial workplace environments such as schools, school employees and students may be exposed to hazardous concentrations of asbestos fibers in the school buildings which they use each day;

(9) without a program of information distribution, technical and scientific assistance, and financial support, many local educational agencies and States will not be able to mitigate the potential asbestos hazards in their schools; and

(10) the effective regulation of interstate commerce for the protection of the public health requires the establishment of programs under this title to mitigate hazards from exposure to asbestos fibers and materials emitting such fibers.

(b) It is the purpose of this title to—

(1) direct the Administrator of the Environmental Protection Agency to establish a program to assist States and local educational agencies to ascertain the extent of the danger to the health of school children and employees from asbestos materials in schools;

(2) provide continuing scientific and technical assistance to State and local agencies to enable them to identify and abate asbestos hazards in schools;

(3) provide financial assistance for the abatement of asbestos threats to the health and safety of school children or employees; and

(4) assure that no employee of any local educational agency suffers any disciplinary action as a result of calling attention to potential asbestos hazards which may exist in schools.

ASBESTOS HAZARD ABATEMENT PROGRAM

Establishment.
20 USC 4012.

SEC. 503. (a)(1) There is hereby established a program within the Environmental Protection Agency to be known as the Asbestos Hazards Abatement Program (hereinafter in this title referred to as "Program").

(b) The duties of the Administrator in implementing and effectuating the Program shall include—

(1) the compilation of medical, scientific, and technical information including, but not limited to—

(A) the health and safety hazards associated with asbestos materials;

(B) the means of identifying, sampling, and testing materials suspected of emitting asbestos fibers; and

(C) the means of abating the threat posed by asbestos and asbestos containing materials;

(2) the distribution of the information described in paragraph (1) (in any appropriate form such as pamphlets, reports, or instructions) to State and local agencies and to other institutions for the purpose of carrying out activities described in this title;

(3) the development within forty-five days of enactment of this title of an interim or final application form, which shall be distributed promptly to local educational agencies; and

(4) the review of applications for financial assistance, and the approval or disapproval of such applications, in accordance with the provisions of section 505.

STATE PLANS

SEC. 504. (a) Not later than three months after the date of enactment of this title, the Governor of each State shall submit to the Administrator a plan which describes the procedures to be used by the State for maintaining records on— 20 USC 4013.

(1) the presence of asbestos materials in school buildings of local educational agencies;

(2) the asbestos detection and abatement activities conducted by local educational agencies (including activities relating to the replacement of the asbestos materials removed from school buildings with other appropriate building materials);

(3) repairs made to restore school buildings to conditions comparable to those which existed before the abatement activities referred to in subparagraph (B) were undertaken.

(b)(1) Not later than six months after the date of enactment of this title, and annually thereafter, the Governor of each State shall:

(A) submit to the Administrator and the Secretary of the Department of Education a priority list of all schools under the authority of a local educational agency within the State, without regard to the public or private nature of the school involved, that are candidates for abatement;

(B) forward to the Administrator and the Secretary of the Department of Education for each candidate for abatement all applications for financial assistance prepared by the local educational agencies in accordance with the provisions of section 503(b)(3) and section 505; and

(C) forward to the Secretary of the Department of Education a copy of all information submitted to the Administrator in accordance with subsection (b)(3).

(2) The priority list shall rank the potential candidates for abatement action based on the nature and magnitude of the existing and potential exposure presented by the asbestos materials.

(3) For each school listed, the Governor shall certify that the statement of need contained in the application for assistance accurately reflects the financial resources available to the local educational agency for the asbestos abatement program.

(4) For the purpose of determining the adequacy of the financial resources available to a local educational agency for the abatement of asbestos threats the Governor shall, to the extent practicable, consider the following:

(A) A measure of financial need used by the State in which the local educational agency is located.

(B) The estimated per capita income of the locality of such agency or of those directly or indirectly providing financial support for such agency.

(C) The extent to which the local school millage rate falls above or below (i) the millage rate average of the State and (ii) the millage rate of other local educational agencies with comparable enrollment, per capita income and resource base.

(D) The ratio, expressed as a percentage, of the estimated cost of the project to the total budget of the local educational agency.

(E) The borrowing capacity of the local educational agency.

(F) Any other factor that demonstrates that the local educational agency has limited financial resources.

Report.

(c) Not later than nine months after the submission of the plan described in subsection (a), and each twelve months thereafter, the Governor shall submit to the Administrator a report which describes the actions taken by the State in accordance with its plan under such subsection.

FINANCIAL ASSISTANCE

Asbestos Hazards Abatement Assistance Program.
20 USC 4014.

SEC. 505. (a) There is hereby established within the Environmental Protection Agency an Asbestos Hazards Abatement Assistance Program (hereinafter in this Act referred to as the "Assistance Program"), which shall be administered in accordance with this section.

(b)(1) Applications for financial assistance shall be submitted by a local educational agency, to the Governor, or the Governor's designee, who shall establish a priority list based on the criteria of section 504(b)(2).

(2) Pursuant to section 504, applications shall be submitted, together with the Governor's report and priority list, to the Administrator who shall review and rank such applications pursuant to section 505(c)(2) and propose financing pursuant to the criteria of section 504(b)(4).

Study.

(3) Within sixty days of receipt of the information described in section 504(b)(1), the Secretary of the Department of Education shall review such information and, in the Secretary's discretion, provide to the Administrator comments and recommendations based upon the needs of local educational agencies for financial assistance. Within sixty days of receipt of the Secretary's report, or expiration of the time allowed for such report, the Administrator shall approve or disapprove applications for financial assistance.

(c)(1) The Administrator shall provide financial assistance on a school-by-school basis to local educational agencies in accordance with other provisions of this section to carry out projects for—

(A) abating the threat posed by materials containing asbestos to the health and safety of children or employees;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring school buildings to conditions comparable to those existing before abatement activities were undertaken pursuant to this section.

(2) The Administrator shall review and list in priority order applications for financial assistance. In ranking applications, the Administrator shall consider—

(A) the priority assigned to the abatement program by the Governor pursuant to section 504(b)(2);

(B)(i) the likelihood of release of asbestos fibers into a school environment;

(ii) any other evidence of the risk caused by the presence of asbestos including, but not limited to, situations in which there is a substantial quantity of dry loose asbestos-containing material on horizontal surfaces or asbestos-containing material is substantially deteriorated or damaged, and there is asbestos-containing material in an air plenum or in a high traffic area, confined space or within easy reach of a passerby;

(iii) the extent to which the corrective action proposed by the applicant will reduce the exposure of school children and school employees; and

(iv) the extent to which the corrective action proposed by the applicant is cost-effective compared to other techniques including management of material containing asbestos.

(3) In determining whether an applicant is eligible for assistance, and the nature and amount of financial assistance, the Administrator shall consider—

(A) the financial resources available to the applicant as certified by the Governor pursuant to section 504(b)(4); and

(B) the report, if any, of the Secretary of Education pursuant to section 504(b)(5).

(d) In no event shall financial assistance be provided under this title to an applicant if the Administrator determines that such applicant has resources adequate to support an appropriate asbestos materials abatement program. In making such a determination, the Administrator may consult with the Secretary of Education.

Loans.
Grants.

(e)(1) An applicant for financial assistance may be granted a loan of up to 100 per centum of the costs of an abatement program or, if the Administrator determines the applicant is unable to undertake and complete an asbestos materials abatement program with a loan, such applicant may also receive a grant (alone or in combination with a loan) not to exceed 50 per centum of the total costs of abatement, in the amount which the Administrator deems necessary.

Grants.

(2) In approving any grant, the Administrator shall state with particularity the reasons why the applicant is unable to undertake and complete the abatement program with loan funds.

Loans.

(f) Loans under this section shall be made pursuant to agreements which shall provide for the following:

(1) the loan shall not bear interest;

(2) the loan shall have a maturity period of not more than twenty years (as determined by the Administrator) and shall be repayable during such period at such times and in such amounts as the Administrator may specify in the loan agreement;

(3) repayment shall be made to the Secretary of the Treasury for deposit in the general fund; and

(4) such other terms and conditions that the Administrator determines necessary to protect the financial interest of the United States.

(g)(1) No financial assistance may be provided under this section unless an application has been submitted to the Administrator within the five-year period beginning on the effective date of this title.

(2) The Administrator shall not approve an application unless—

(A) the application contains such information as the Administrator may require, including but not limited to information describing—

(i) the nature and extent of the asbestos problem for which the assistance is sought;

(ii) the asbestos content of the material to be abated;

(iii) the methods which will be used to abate the asbestos materials;

(iv) the amount and type of financial assistance requested;

(v) a description of the financial resources of the local educational agency; and

(vi) a justification for the type and amount of the financial assistance requested.

(B) the application contains a certification that—

(i) any employee engaged in an asbestos material abatement program will be trained and equipped pursuant to section 506(b)(2)(B); and

(ii) no child or inadequately informed or protected school employee will be permitted in the vicinity of any asbestos abatement activity;

(C) the application contains assurances that the local educational agency will furnish such information as is necessary for the Administrator to make the report required by section 507 of this title.

(3) No financial assistance may be provided by the Administrator under this section for projects described in subsection (a)(2) on which abatement action was completed prior to January 1, 1984.

(B) Except as provided in section 512(b)(1) in approving applications the Administrator shall provide assistance to the local educational agencies having the highest priority among applications being considered in order of ranking until the appropriated funds are expended.

Regulations.
20 USC 4015.

SEC. 506. (a) The Administrator shall promulgate rules and regulations as necessary to implement the authorities and requirements of this title.

(b) The Administrator shall also establish—

(1) procedures to be used by local educational agencies, in programs for which financial assistance is made available under section 505 for—

(A) abating asbestos materials in school buildings;

(B) replacing the asbestos materials removed from school buildings with other appropriate building materials; and

(C) restoring such school buildings to conditions comparable to those existing before asbestos containment or removal activities were undertaken; and

(2) within ninety days, standards for determining—

(A) which contractors are qualified to carry out the activities referred to in paragraph (1), and

(B) what training, equipment, protective clothing and other information and material must be supplied to adequately advise and protect school employees utilized to carry out the activities in paragraph (1).

(3) nothing contained in this title shall be construed, interpreted or applied to diminish in any way the level of protection required under State or Federal worker protection laws.

(c) In order to effectuate the purposes of this title, the Administrator may also adopt such other procedures, standards and regulations as the Administrator deems necessary, including—

(1) procedures for testing the level of asbestos fibers in schools, including safety measures to be followed in conducting such tests;

(2) standards for evaluating (on the basis of such tests) the likelihood of the leakage of asbestos fibers into the school environment; and

(3) periodic reporting with respect to the activities that have taken place using funds loaned or granted under this title.

ANNUAL REPORT

Loans.
Grants.
20 USC 4016.

SEC. 507. During each of the ten calendar years after the year in which this title is enacted, the Administrator shall prepare and submit not later than February 1 of each year a report to the Committee on Environment and Public Works of the United States Senate and the Committee on Energy and Commerce of the United States House of Representatives on the loan and grant program authorized by section 505 of this title. The report shall—

(1) describe the number of applications received;

(2) describe the number of loans and grants made in the preceding calendar year and specify each applicant for and recipient of a loan or grant;

(3) specify the number of loan or grant applications which were disapproved during the preceding calendar year and describe the reasons for such disapprovals;

(4) describe the types of programs for which loans or grants were made;

(5) specify the estimated total costs of such programs to the recipients of loans or grants and specify the amount of loans or grants made under the program authorized by this section; and

(6) estimate the number of schools still in need of assistance.

Suits.
20 USC 4017.

SEC. 508. (a)(1) As a condition of the award of any financial assistance under section 505, the recipient of any such loan or grant shall permit the United States to sue on behalf of such recipient any person determined by the Attorney General to be liable to the recipient for the costs of any activities undertaken by the recipient under such sections.

(2) The proceeds from any judgment recovered in any suit brought by the United States under paragraph (1) (or, if the recipient files a similar suit on its own behalf, the proceeds from a judgment recovered by the recipient in such suit) shall be used to repay to the United States, to the extent that the proceeds are sufficient to provide for such repayment, an amount equal to the sum of—

(A) the amount (i) outstanding on any loan and (ii) of any grant made to the recipient; and

(B) an amount equal to the interest which would have been charged on such loan were the loan made by a commercial lender at prevailing interest rates (as determined by the Administrator).

(b) The Attorney General shall, where appropriate, proceed in an expeditious manner to recover the amounts expended by the United States to carry out this title from the persons identified by the Attorney General as being liable for such costs.

Discrimination, prohibition. 20 USC 4018.

SEC. 509. No State or local educational agency receiving assistance under this title may discharge any employee or otherwise discriminate against any employee with respect to the employee's compensation, terms, conditions, or privileges of employment because the employee has brought to the attention of the public information concerning any asbestos problem in the school buildings within the jurisdiction of such agency.

Prohibitions. 20 USC 4019.

SEC. 510. Except as otherwise provided in section 508, nothing in this title shall—

(1) affect the right of any party to seek legal redress in connection with the purchase or installation of asbestos materials in schools or any claim of disability or death related to exposure to asbestos in a school setting; or

(2) affect the rights of any party under any other law.

20 USC 4020.

SEC. 511. For purposes of this title—

(1) the term "asbestos" means—

(A) chrysotile, amosite, or crocidolite; or

(B) in fibrous form, tremolite, anthophyllite, or actinolite;

(2) the term "Attorney General" means the Attorney General of the United States;

(3) the term "threat" or "hazard" means that an asbestos material is friable or easily damaged, or within each reach of students or employees or otherwise susceptible to damage (including damage from water or air circulation) which could result in the dispersal of asbestos fibers into the school environment;

(4) the term "local educational agency" means—

(A) any local educational agency as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965; and

20 USC 2854.

(B) the governing authority of any nonprofit elementary or secondary school;

(5) the term "nonprofit elementary or school" means—

(A) any elementary or secondary school as defined in section 198(a)(7) of the Elementary and Secondary Education Act of 1965 owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual; and

(B) any school of any agency of the United States;

(6) the term "school buildings" means—

(A) structures suitable for use as classrooms, laboratories, libraries, school eating facilities, or facilities used for the preparation of food;

(B) any gymnasium or other facility which is specially designed for athletic or recreational activities for an academic course in physical education;

(C) other facilities used for the instruction of students, for research, or for the administration of educational or research programs; and

(D) maintenance, storage, or utility facilities essential to the operation of the facilities described in subparagraphs (A) through (C) of this paragraph;

(7) the term "Administrator" means the Administrator of the Environmental Protection Agency, or the Administrator's designee;

(8) the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Bureau of Indian Affairs.

Appropriations authorization. 20 USC 4021.

SEC. 512. (a)(1) There are hereby authorized to be appropriated for the asbestos abatement program not more than $50,000,000 for the fiscal year ending on September 30, 1984, $50,000,000 for the fiscal year ending on September 30, 1985, and $100,000,000 for each of the five succeeding fiscal years.

(2) The sums appropriated under this title shall remain available until expended.

(b)(1) A State with qualified applicants shall receive no less than one-half of 1 per centum of the sums appropriated under this title or the total of the amounts requested by such applicants, whichever is less. Those amounts available in each fiscal year under this paragraph shall be obligated before the end of that fiscal year. For the purposes of this paragraph the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Bureau of Indian Affairs and, taken together, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) Of those sums appropriated for the implementation of this title, up to 10 per centum shall be reserved during the fiscal year ending September 30, 1984, and up to 5 per centum for the fiscal year ending September 30, 1985, for the administration of this title and for programs including, but not limited to, the following:

(A) the establishment of a training center for contractors, engineers, school employees, parents and other personnel to provide instruction on asbestos assessment and abatement;

(B) the development and dissemination of abatement guidance documents to assist in evaluation of potential hazards, and the determination of proper abatement programs;

(C) the development of rules and regulations regarding inspection, reporting and record-keeping; and

(D) the development of a comprehensive testing and technical assistance program.

TITLE VI—EXCELLENCE IN EDUCATION PROGRAM

Excellence in Education Act.

SHORT TITLE

20 USC 4031 note.

SEC. 601. This title may be cited as the "Excellence in Education Act".

STATEMENT OF PURPOSE

20 USC 4031.

SEC. 602. It is the purpose of this title to make awards to local educational agencies, after a competitive selection process, in order to carry out programs of excellence in individual schools of such agencies designed to achieve excellence in education, which—

(1) demonstrate successful techniques for improving the quality of education,

(2) can be disseminated and replicated, and

(3) are conducted with the participation of school principals, schoolteachers, parents, and business concerns in the locality.

DEFINITIONS

20 USC 4032. SEC. 603. For the purpose of this title—

(1) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965. 20 USC 2854.

(2) The term "local educational agency" has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965.

(3) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(6) The term "State educational agency" has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965.

SCHOOL EXCELLENCE AWARDS AUTHORIZED

20 USC 4033. SEC. 604. (a) The Secretary is authorized, in accordance with the provisions of this title, to make awards to local educational agencies for school excellence programs which are consistent with the purpose of this title.

Appropriations authorization. (b)(1) There are authorized to be appropriated $16,000,000 for each of the fiscal years 1984 and 1985 to carry out the provisions of this title.

(2) From the amount appropriated in each fiscal year, the Secretary shall reserve $3,000,000 in each fiscal year to carry out the provisions of section 607.

(3) From the amount appropriated in each fiscal year, the Secretary shall reserve $1,000,000 in each fiscal year to carry out the provisions of section 608.

SELECTION OF SCHOOLS FOR AWARDS

20 USC 4034. SEC. 605. (a)(1) The Secretary is authorized to establish, in accordance with the provisions of this section, criteria for the selection of schools to receive awards under this title. Each local educational agency desiring to participate in the awards program authorized by this title shall submit a proposal nominating each specific school of that agency for school improvement activities designed to carry out the purpose of this title. Each such submission shall be made to the chief State school officer of the State in which the local educational agency is located.

(2) The criteria required by paragraph (1) of this subsection shall include standards for each local educational agency to nominate schools of that agency—

(A) which have the potential to experiment with standards of quality; and

(B) which show promise of demonstrating that the school will carry out well-planned, creative, or innovative activities designed to carry out the purposes of this title in a successful manner.

(3) Each proposal submitted under this subsection shall contain—

(A) a description of the activities which will be conducted in the school nominated,

(B) assurances that the school to be nominated will carry out the activities so described, and

(C) such other information as may be necessary to carry out paragraph (2) of this subsection.

(b)(1)(A) The chief State school officer of each State shall in each fiscal year from the proposed nominations made pursuant to subsection (a) select twenty-five schools for submission to the Secretary.

(B) In the case of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the chief educational officer of such jurisdiction shall nominate five schools in accordance with this subsection.

(2) In selecting schools from proposed nominations submitted under subsection (a), the chief State school officer shall assure a fair and equitable distribution of schools within the State, after considering—

(A) all categories of elementary and secondary schools within the State, including elementary schools, junior high schools, secondary schools, vocational-technical schools, or any combination of two or more of the schools;

(B) socioeconomic conditions in the State;

(C) geographic distribution within the State;

(D) school size;

(E) the size and location of the community in which the school is located;

(F) the local governmental arrangements between the government and the local educational agency making the nomination;

(G) the potential for the proposed project to successfully demonstrate techniques for improving the quality of education which can be disseminated and replicated; and

(H) such other relevant factors as the Secretary may prescribe.

(3) Each State shall submit to the Secretary the school nominations made in accordance with this subsection. Each such submission may include such additional information as the chief State school officer (the chief educational officer as prescribed in paragraph (1)(B)), and the local educational agency concerned deem appropriate.

(c)(1) The Secretary shall select not more than five hundred schools from among the nominations submitted pursuant to subsection (b) of this section. The selection under this subsection shall be made by the Secretary after an impartial review panel has considered each submission. The review and selection shall be based upon the factors described in subsection (b)(2) and in accordance with uniform criteria developed by the Secretary.

(2) In making the selections under paragraph (1), the Secretary shall give priority to proposals which have the highest potential for successfully demonstrating techniques to improve the quality of education and which can be disseminated and replicated. In addition the Secretary shall give priority to proposals which have as their purposes—

(A) modernization and improvement of secondary school curricula to improve student achievement in academic or vocational subjects, or both, and competency in basic functional skills;

(B) the elimination of excessive electives and the establishment of increased graduation requirements in basic subjects;

(C) improvement in student attendance and discipline through the demonstration of innovative student motivation techniques and attendance policies with clear sanctions to reduce student absenteeism and tardiness;

(D) demonstrations designed to increase learning time for students;

(E) experimentation providing incentives to teachers, and teams of teachers for outstanding performance, including financial awards, administrative relief such as the removal of paperwork and extra duties, and professional development;

(F) demonstrations to increase student motivation and achievement through creative combinations of independent study, team teaching, laboratory experience, technology utilization, and improved career guidance and counseling; or

(G) new and promising models of school-community and school-to-school relationships including the use of nonschool personnel to alleviate shortages in areas such as math, science, and foreign language instruction, as well as other partnerships between business and education, including the use of equipment.

AMOUNT AND CONDITIONS OF AWARDS

20 USC 4035.

SEC. 606. (a)(1) A school award made to a local educational agency pursuant to this title may not exceed $25,000 in any fiscal year or a total of $40,000.

(2) The amount of each individual school award made pursuant to this title shall be determined by the Secretary based upon the size of the school, the number of students enrolled in the school, and the number of teachers teaching in the school.

Prohibition.

(b) Awards made under this title may not be made for more than two school years. No individual school may be eligible for any additional award under this title.

SPECIAL SCHOOL AWARDS

20 USC 4036.

SEC. 607. (a) From the amount reserved under section 604(b)(2) in any fiscal year, the Secretary is authorized to make awards to schools nominated in accordance with the provisions of section 605 to pay the Federal share of the activities described in the proposal if the local educational agency provides further assurances that funds from the private sector will be contributed for carrying out the activities for which assistance is sought.

(b) For purposes of this section, the Federal share for each fiscal year shall be not less than 67⅔ per centum nor more than 90 per centum. The Secretary shall set the Federal share for categories of school awards based upon uniform criteria established by the Secretary.

RESEARCH, EVALUATION, DISSEMINATION, AND MONITORING ACTIVITIES

20 USC 4037.

SEC. 608. (a) From the amount set aside under section 604(b)(3), the Secretary shall conduct research, evaluation, and dissemination activities to assure that exemplary projects and practices which are developed with assistance provided under this title are made available to local educational agencies throughout the United States.

(b) The Secretary shall use such amount of the funds reserved pursuant to section 604(b)(3) as is necessary to carry out the provisions of this subsection. The Secretary shall establish an independent panel to monitor the success of the programs assisted by this title in achieving the national objectives in improving instruction and the achievement of the students. Independent Monitoring Panels.

TITLE VII—MAGNET SCHOOLS ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 701. There are authorized to be appropriated $75,000,000 for each of the fiscal years 1984, 1985, and 1986 to carry out the provisions of this title. 20 USC 4051.

ELIGIBILITY

SEC. 702. A local educational agency is eligible to receive assistance under this title if the local educational agency— 20 USC 4052.

(1) has received $1,000,000 less in the first fiscal year after the repeal of the Emergency School Assistance Act by section 5 of the Omnibus Budget Reconciliation Act of 1981 as a result of the repeal of that Act; or 20 USC 3191.

(2) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or Discrimination, prohibition.

(3) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools. 42 USC 2000d.

STATEMENT OF PURPOSE

SEC. 703. It is the purpose of this title— 20 USC 4053.

(1) to provide financial assistance to eligible local educational agencies to enable such agencies to establish and operate magnet schools;

(2) to meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; Discrimination, prohibition.

(3) to encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(4) to encourage the development of courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

PROGRAM AUTHORIZED

SEC. 704. The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved Grants. 20 USC 4054.

desegregation plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

DEFINITION

20 USC 4055.

SEC. 705. For the purpose of this title the term "magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

USES OF FUNDS

Grants.
20 USC 4056.

SEC. 706. (a) Grants made under this title may be used by eligible local educational agencies for the planning for, and conduct of, programs in magnet schools, including—

(1) courses of academic instruction offered at magnet schools;

(2) courses of instruction in magnet schools offering secondary education or vocational education which is designed to increase the tangible and marketable skills of secondary school students and vocational school students;

(3) the purchase of books, materials, and equipment including computers, which directly contribute to academic excellence and the purposes of this title; and

(4) the payment of or subsidization of the compensation of elementary and secondary school teachers in magnet schools who are certified or licensed by the State and who are necessary to carry out the courses of instruction for which assistance is sought.

APPLICATIONS AND REQUIREMENTS

20 USC 4057.

SEC. 707. (a) Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

Discrimination, prohibition.

(b) As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

(1) to use funds made available under this title for the purposes specified in section 703;

(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan;

(5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, or national origin in designing or operating extracurricular activities for students; and

(6) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

(c) No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances contained in clauses (3), (4), and (5) will be met.

SPECIAL CONSIDERATION

SEC. 708. In approving applications under this title the Secretary shall give special consideration to— 20 USC 4058.

(1) the recentness of the implementation of the approved plan or modification thereof;

(2) the proportion of minority group children involved in the approved plan;

(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

PROHIBITION

SEC. 709. Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement, or for the courses of instruction the substance of which is secular humanism. 20 USC 4059.

LIMITATION ON PAYMENTS

SEC. 710. (a) No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title. 20 USC 4060.

(b) No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

(c) No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of the Education Consolidation and Improvement Act of 1981 in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title, except that a State may reduce the amount of assistance received under such chapter 2 if the amount is attributable to clause (3) of section 577 (as in effect prior to the date of enactment of section 502 of the Education for Economic Security Act) but only to the extent the amount is so attributable. The Secretary may waive the prohibition against the reduction of assistance received under chapter 2 and permit such a reduction if the State demonstrates that the assistance under such chapter 2 is not necessary to the local education agency concerned. 20 USC 3811 *et seq.* 20 USC 3832. 20 USC 3811 *et seq.*

PAYMENTS

SEC. 711. (a) The Secretary shall pay to each local educational agency having an application under this title the amount set forth in the application. Payments under this title for a fiscal year shall 20 USC 4061.

remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year.

(b)(1) If a local educational agency in a State is prohibited by law from providing for the participation of children and staff enrolled or employed in private nonprofit elementary and secondary schools as required by this title, the Secretary may waive such requirement with respect to local educational agencies in such State and, upon the approval of an application from a local educational agency within such State, shall arrange for the provision of services to such children enrolled in, or teachers or other educational staff of, any nonprofit private elementary or secondary school located within the school district of such agency if the participation of such children and staff would assist in achieving the purpose of this title. The services to be provided through arrangements made by the Secretary under this paragraph shall be comparable to the services to be provided by such local educational agency under such application.

(2) In determining the amount to be paid pursuant to paragraph (1), the Secretary shall take into account the number of children and teachers and other educational staff who, except for provisions of State law, might reasonably be expected to participate in the program carried out under this title by such local educational agency.

(3) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of children and staff enrolled or employed in private nonprofit elementary and secondary schools, the Secretary shall arrange for the provision of services to children enrolled in, or teachers or other educational staff of, the nonprofit private elementary or secondary school or schools located within the school district of such local educational agency, which services shall, to the maximum extent feasible, be identical with the services which would have been provided such children or staff had the local educational agency carried out such assurance. The Secretary shall pay the cost of such services from the grant to such local educational agency and shall have the authority for this purpose of recovering from such agency any funds paid to it under such grant.

WITHHOLDING

20 USC 4062.
20 USC 1234b, 1234c.

SEC. 712. The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

The Equal Access Act.

TITLE VIII—THE EQUAL ACCESS ACT

SHORT TITLE

20 USC 4071 note.

SEC. 801. This title may be cited as "The Equal Access Act".

DENIAL OF EQUAL ACCESS PROHIBITED

20 USC 4071.

SEC. 802. (a) It shall be unlawful for any public secondary school which receives Federal financial assistance and which has a limited open forum to deny equal access or a fair opportunity to, or discriminate against, any students who wish to conduct a meeting within that limited open forum on the basis of the religious, political, philosophical, or other content of the speech at such meetings.

(b) A public secondary school has a limited open forum whenever such school grants an offering to or opportunity for one or more noncurriculum related student groups to meet on school premises during noninstructional time.

(c) Schools shall be deemed to offer a fair opportunity to students who wish to conduct a meeting within its limited open forum if such school uniformly provides that—

(1) the meeting is voluntary and student-initiated;

(2) there is no sponsorship of the meeting by the school, the government, or its agents or employees;

(3) employees or agents of the school or government are present at religious meetings only in a nonparticipatory capacity;

(4) the meeting does not materially and substantially interfere with the orderly conduct of educational activities within the school; and

(5) nonschool persons may not direct, conduct, control, or regularly attend activities of student groups.

(d) Nothing in this title shall be construed to authorize the United States or any State or political subdivision thereof—

(1) to influence the form or content of any prayer or other religious activity;

(2) to require any person to participate in prayer or other religious activity;

(3) to expend public funds beyond the incidental cost of providing the space for student-initiated meetings;

(4) to compel any school agent or employee to attend a school meeting if the content of the speech at the meeting is contrary to the beliefs of the agent or employee;

(5) to sanction meetings that are otherwise unlawful;

(6) to limit the rights of groups of students which are not of a specified numerical size; or

(7) to abridge the constitutional rights of any person.

(e) Notwithstanding the availability of any other remedy under the Constitution or the laws of the United States, nothing in this title shall be construed to authorize the United States to deny or withhold Federal financial assistance to any school.

(f) Nothing in this title shall be construed to limit the authority of the school, its agents or employees, to maintain order and discipline on school premises, to protect the well-being of students and faculty, and to assure that attendance of students at meetings is voluntary.

DEFINITIONS

SEC. 803. As used in this title— 20 USC 4072.

(1) The term "secondary school" means a public school which provides secondary education as determined by State law.

(2) The term "sponsorship" includes the act of promoting, leading, or participating in a meeting. The assignment of a teacher, administrator, or other school employee to a meeting for custodial purposes does not constitute sponsorship of the meeting.

(3) The term "meeting" includes those activities of student groups which are permitted under a school's limited open forum and are not directly related to the school curriculum.

(4) The term "noninstructional time" means time set aside by the school before actual classroom instruction begins or after actual classroom instruction ends.

SEVERABILITY

SEC. 804. If any provision of this title or the application thereof to any person or circumstances is judicially determined to be invalid, the provisions of the remainder of the title and the application to other persons or circumstances shall not be affected thereby. 20 USC 4073.

CONSTRUCTION

SEC. 805. The provisions of this title shall supersede all other provisions of Federal law that are inconsistent with the provisions of this title. 20 USC 4074.

Approved August 11, 1984.

LEGISLATIVE HISTORY—H.R. 1310 (S. 1285):

HOUSE REPORTS No. 98-6, Pt. 1 (Comm. on Education and Labor) and Pt. 2 (Comm. on Science and Technology).
SENATE REPORT: No. 98-151 accompanying S. 1285 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 129 (1983): Mar. 2, considered and passed House.
Vol. 130 (1984): June 6, 26, S. 1285 considered in Senate.
June 27, considered and passed Senate, amended, in lieu of S. 1285.
July 25, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 33 (1984):
Aug. 11, Presidential statement.

Public Law 98-462
98th Congress

An Act

To promote research and development, encourage innovation, stimulate trade, and make necessary and appropriate modifications in the operation of the antitrust laws.

Oct. 11, 1984
[S. 1841]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Cooperative Research Act of 1984

SHORT TITLE

SECTION 1. This Act may be cited as the "National Cooperative Research Act of 1984".

15 USC 4301 note.

DEFINITIONS

SEC. 2. (a) For purposes of this Act:

15 USC 4301.

(1) The term "antitrust laws" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section 5 applies to unfair methods of competition.

(2) The term "Attorney General" means the Attorney General of the United States.

(3) The term "Commission" means the Federal Trade Commission.

(4) The term "person" has the meaning given it in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)).

(5) The term "State" has the meaning given it in section 4G(2) of the Clayton Act (15 U.S.C. 15g(2)).

(6) The term "joint research and development venture" means any group of activities, including attempting to make, making, or performing a contract, by two or more persons for the purpose of—

(A) theoretical analysis, experimentation, or systematic study of phenomena or observable facts,

(B) the development or testing of basic engineering techniques,

(C) the extension of investigative findings or theory of a scientific or technical nature into practical application for experimental and demonstration purposes, including the experimental production and testing of models, prototypes, equipment, materials, and processes,

(D) the collection, exchange, and analysis of research information, or

(E) any combination of the purposes specified in subparagraphs (A), (B), (C), and (D),

and may include the establishment and operation of facilities for the conducting of research, the conducting of such venture on a protected and proprietary basis, and the prosecuting of applications for patents and the granting of licenses for the results of such venture, but does not include any activity specified in subsection (b).

(b) The term "joint research and development venture" excludes the following activities involving two or more persons:

(1) exchanging information among competitors relating to costs, sales, profitability, prices, marketing, or distribution of any product, process, or service that is not reasonably required to conduct the research and development that is the purpose of such venture,

(2) entering into any agreement or engaging in any other conduct restricting, requiring, or otherwise involving the production or marketing by any person who is a party to such venture of any product, process, or service, other than the production or marketing of proprietary information developed through such venture, such as patents and trade secrets, and

(3) entering into any agreement or engaging in any other conduct—

(A) to restrict or require the sale, licensing, or sharing of inventions or developments not developed through such venture, or

(B) to restrict or require participation by such party in other research and development activities,

that is not reasonably required to prevent misappropriation of proprietary information contributed by any person who is a party to such venture or of the results of such venture.

RULE OF REASON STANDARD

15 USC 4302.

SEC. 3. In any action under the antitrust laws, or under any State law similar to the antitrust laws, the conduct of any person in making or performing a contract to carry out a joint research and development venture shall not be deemed illegal per se; such conduct shall be judged on the basis of its reasonableness, taking into account all relevant factors affecting competition, including, but not limited to, effects on competition in properly defined, relevant research and development markets.

LIMITATION ON RECOVERY

Claims.
15 USC 4303.

SEC. 4. (a) Notwithstanding section 4 of the Clayton Act (15 U.S.C. 15) and in lieu of the relief specified in such section, any person who is entitled to recovery on a claim under such section shall recover the actual damages sustained by such person, interest calculated at the rate specified in section 1961 of title 28, United States Code, on such actual damages as specified in subsection (d), and the cost of suit attributable to such claim, including a reasonable attorney's fee pursuant to section 5 of this Act if such claim—

(1) results from conduct that is within the scope of a notification that has been filed under section 6(a) of this Act for a joint research and development venture, and

(2) is filed after such notification becomes effective pursuant to section 6(c) of this Act.

(b) Notwithstanding section 4C of the Clayton Act (15 U.S.C. 15c), and in lieu of the relief specified in such section, any State that is entitled to monetary relief on a claim under such section shall recover the total damage sustained as described in subsection (a)(1) of such section, interest calculated at the rate specified in section

1961 of title 28, United States Code, on such total damage as specified in subsection (d), and the cost of suit attributable to such claim, including a reasonable attorney's fee pursuant to section 4C of the Clayton Act if such claim— 15 USC 15c.

(1) results from conduct that is within the scope of a notification that has been filed under section 6(a) of this Act for a joint research and development venture, and

(2) is filed after such notification becomes effective pursuant to section 6(c) of this Act.

(c) Notwithstanding any provision of any State law providing damages for conduct similar to that forbidden by the antitrust laws, any person who is entitled to recovery on a claim under such provision shall not recover in excess of the actual damages sustained by such person, interest calculated at the rate specified in section 1961 of title 28, United States Code, on such actual damages as specified in subsection (d), and the cost of suit attributable to such claim, including a reasonable attorney's fee pursuant to section 5 of this Act if such claim—

(1) results from conduct that is within the scope of a notification that has been filed under section 6(a) of this Act for a joint research and development venture, and

(2) is filed after notification has become effective pursuant to section 6(c) of this Act.

(d) Interest shall be awarded on the damages involved for the period beginning on the earliest date for which injury can be established and ending on the date of judgment, unless the court finds that the award of all or part of such interest is unjust in the circumstances.

(e) This section shall be applicable only if the challenged conduct of a person defending against a claim is not in violation of any decree or order, entered or issued after the effective date of this Act, in any case or proceeding under the antitrust laws or any State law similar to the antitrust laws challenging such conduct as part of a joint research and development venture.

ATTORNEY'S FEES

15 USC 4304.
15 USC 15, 26.

SEC. 5. (a) Notwithstanding sections 4 and 16 of the Clayton Act, in any claim under the antitrust laws, or any State law similar to the antitrust laws, based on the conducting of a joint research and development venture, the court shall, at the conclusion of the action—

(1) award to a substantially prevailing claimant the cost of suit attributable to such claim, including a reasonable attorney's fee, or

(2) award to a substantially prevailing party defending against any such claim the cost of suit attributable to such claim, including a reasonable attorney's fee, if the claim, or the claimant's conduct during the litigation of the claim, was frivolous, unreasonable, without foundation, or in bad faith.

(b) The award made under subsection (a) may be offset in whole or in part by an award in favor of any other party for any part of the cost of suit, including a reasonable attorney's fee, attributable to conduct during the litigation by any prevailing party that the court finds to be frivolous, unreasonable, without foundation, or in bad faith.

DISCLOSURE OF JOINT RESEARCH AND DEVELOPMENT VENTURE

15 USC 4305.

SEC. 6. (a) Any party to a joint research and development venture, acting on such venture's behalf, may, not later than 90 days after entering into a written agreement to form such venture or not later than 90 days after the date of the enactment of this Act, whichever is later, file simultaneously with the Attorney General and the Commission a written notification disclosing—

(1) the identities of the parties to such venture, and

(2) the nature and objectives of such venture.

Any party to such venture, acting on such venture's behalf, may file additional disclosure notifications pursuant to this section as are appropriate to extend the protections of section 4. In order to maintain the protections of section 4, such venture shall, not later than 90 days after a change in its membership, file simultaneously with the Attorney General and the Commission a written notification disclosing such change.

Federal Register, publication.

(b) Except as provided in subsection (e), not later than 30 days after receiving a notification filed under subsection (a), the Attorney General or the Commission shall publish in the Federal Register a notice with respect to such venture that identifies the parties to such venture and that describes in general terms the area of planned activity of such venture. Prior to its publication, the contents of such notice shall be made available to the parties to such venture.

(c) If with respect to a notification filed under subsection (a), notice is published in the Federal Register, then such notification shall operate to convey the protections of section 4 as of the earlier of—

(1) the date of publication of notice under subsection (b), or

(2) if such notice is not so published within the time required by subsection (b), after the expiration of the 30-day period beginning on the date the Attorney General or the Commission receives the applicable information described in subsection (a).

Public information. Confidentiality.

(d) Except with respect to the information published pursuant to subsection (b)—

(1) all information and documentary material submitted as part of a notification filed pursuant to this section, and

(2) all other information obtained by the Attorney General or the Commission in the course of any investigation, administrative proceeding, or case, with respect to a potential violation of the antitrust laws by the joint research and development venture with respect to which such notification was filed,

shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made publicly available by any agency of the United States to which such section applies except in a judicial or administrative proceeding in which such information and material is subject to any protective order.

(e) Any person who files a notification pursuant to this section may withdraw such notification before notice of the joint research and development venture involved is published under subsection (b). Any notification so withdrawn shall not be subject to subsection (b) and shall not confer the protections of section 4 on any person with respect to whom such notification was filed.

(f) Any action taken or not taken by the Attorney General or the Commission with respect to notifications filed pursuant to this section shall not be subject to judicial review.

(g)(1) Except as provided in paragraph (2), for the sole purpose of establishing that a person is entitled to the protections of section 4, the fact of disclosure of conduct under section 6(a) and the fact of publication of a notice under section 6(b) shall be admissible into evidence in any judicial or administrative proceeding.

Admissible evidence.

(2) No action by the Attorney General or the Commission taken pursuant to this section shall be admissible into evidence in any such proceeding for the purpose of supporting or answering any claim under the antitrust laws or under any State law similar to the antitrust laws.

Approved October 11, 1984.

LEGISLATIVE HISTORY—S. 1841 (H.R. 5041):

HOUSE REPORTS: No. 98-1044 (Comm. of Conference) and No. 98-656 accompanying H.R. 5041 (Comm. on the Judiciary).
SENATE REPORT No. 98-427 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 130 (1984):
May 1, H.R. 5041 considered and passed House.
July 31, considered and passed Senate.
Aug. 9, considered and passed House, amended, in lieu of H.R. 5041.
Sept. 26, Senate agreed to conference report.
Oct. 1, House agreed to conference report.

Public Law 98-575
98th Congress

An Act

To facilitate commercial space launches, and for other purposes.

Oct. 30, 1984
[H.R. 3942]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commercial Space Launch Act.

SHORT TITLE

SECTION 1. This Act may be cited as the "Commercial Space Launch Act".

49 USC app. 2601 note.

FINDINGS

SEC. 2. The Congress finds and declares that—

49 USC app. 2601.

(1) the peaceful uses of outer space continue to be of great value and to offer benefits to all mankind;

(2) private applications of space technology have achieved a significant level of commercial and economic activity, and offer the potential for growth in the future, particularly in the United States;

(3) new and innovative equipment and services are being sought, created, and offered by entrepreneurs in telecommunications, information services, and remote sensing technology;

(4) the private sector in the United States has the capability of developing and providing private satellite launching and associated services that would complement the launching and associated services now available from the United States Government;

(5) the development of commercial launch vehicles and associated services would enable the United States to retain its competitive position internationally, thereby contributing to the national interest and economic well-being of the United States;

(6) provision of launch services by the private sector is consistent with the national security interests and foreign policy interests of the United States and would be facilitated by stable, minimal, and appropriate regulatory guidelines that are fairly and expeditiously applied; and

(7) the United States should encourage private sector launches and associated services and, only to the extent necessary, regulate such launches and services in order to ensure compliance with international obligations of the United States and to protect the public health and safety, safety of property, and national security interests and foreign policy interests of the United States.

PURPOSES

SEC. 3. It is therefore the purpose of this Act—

49 USC 2602.

(1) to promote economic growth and entrepreneurial activity through utilization of the space environment for peaceful purposes;

(2) to encourage the United States private sector to provide launch vehicles and associated launch services by simplifying and expediting the issuance and transfer of commercial launch licenses and by facilitating and encouraging the utilization of Government-developed space technology; and

(3) to designate an executive department to oversee and coordinate the conduct of commercial launch operations, to issue and transfer commercial launch licenses authorizing such activities, and to protect the public health and safety, safety of property, and national security interests and foreign policy interests of the United States.

DEFINITIONS

49 USC app. 2603.

SEC. 4. For purposes of this Act—

(1) "agency" means an executive agency as defined by section 105 of title 5, United States Code;

(2) "launch" means to place, or attempt to place, a launch vehicle and payload, if any, in a suborbital trajectory, in Earth orbit in outer space, or otherwise in outer space;

(3) "launch property" means propellants, launch vehicles and components thereof, and other physical items constructed for or used in the launch preparation or launch of a launch vehicle;

(4) "launch services" means those activities involved in the preparation of a launch vehicle and its payload for launch and the conduct of a launch;

(5) "launch site" means the location on Earth from which a launch takes place, as defined in any license issued or transferred by the Secretary under this Act, and includes all facilities located on a launch site which are necessary to conduct a launch;

(6) "launch vehicle" means any vehicle constructed for the purpose of operating in, or placing a payload in, outer space and any suborbital rocket;

(7) "payload" means an object which a person undertakes to place in outer space by means of a launch vehicle, and includes subcomponents of the launch vehicle specifically designed or adapted for that object;

(8) "person" means any individual and any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of any State or any nation;

(9) "Secretary" means the Secretary of Transportation;

(10) "State", and "United States" when used in a geographical sense, mean the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, the United States Virgin Islands, Guam, and any other commonwealth, territory, or possession of the United States; and

(11) "United States citizen" means—

(A) any individual who is a citizen of the United States;

(B) any corporation, partnership, joint venture, association, or other entity organized or existing under the laws of the United States or any State; and

(C) any corporation, partnership, joint venture, association, or other entity which is organized or exists under the laws of a foreign nation, if the controlling interest (as defined by the Secretary in regulations) in such entity is held by an individual or entity described in subparagraph (A) or (B).

GENERAL RESPONSIBILITIES OF THE SECRETARY AND OTHER AGENCIES

49 USC app. 2604.

SEC. 5. (a) The Secretary shall be responsible for carrying out this Act, and in doing so shall—

(1) encourage, facilitate, and promote commercial space launches by the private sector; and

(2) consult with other agencies to provide consistent application of licensing requirements under this Act and to ensure fair and equitable treatment for all license applicants.

(b) To the extent permitted by law, Federal agencies shall assist the Secretary, as necessary, in carrying out this Act.

REQUIREMENT OF LICENSE FOR PRIVATE SPACE LAUNCH OPERATIONS

49 USC app. 2605.

SEC. 6. (a)(1) No person shall launch a launch vehicle or operate a launch site within the United States, unless authorized by a license issued or transferred under this Act.

(2) No United States citizen described in subparagraph (A) or (B) of section 4(11) shall launch a launch vehicle or operate a launch site outside the United States, unless authorized by a license issued or transferred under this Act.

(3)(A) No United States citizen described in subparagraph (C) of section 4(11) shall launch a launch vehicle or operate a launch site at any place which is both outside the United States and outside the territory of any foreign nation, unless authorized by a license issued or transferred under this Act. The preceding sentence shall not apply with respect to a launch or operation of a launch site if there is an agreement in force between the United States and a foreign nation which provides that such foreign nation shall exercise jurisdiction over such launch or operation.

(B)(i) Except as provided in clause (ii) of this subparagraph, this Act shall not apply to the launch of a launch vehicle or the operation of a launch site in the territory of a foreign nation by a United States citizen described in subparagraph (C) of section 4(11).

International agreements.

(ii) If there is an agreement in force between the United States and a foreign nation which provides that the United States shall exercise jurisdiction over the launch of a launch vehicle or operation of a launch site in the territory of such nation by a United States citizen described in subparagraph (C) of section 4(11), no such United States citizen shall launch a launch vehicle or operate a launch site in the territory of such nation, unless authorized by a license issued or transferred under this Act.

(b)(1) The holder of a launch license under this Act shall not launch a payload unless that payload complies with all requirements of Federal law that relate to the launch of a payload. The Secretary shall ascertain whether any license, authorization, or other permit required by Federal law for a payload which is to be launched has been obtained.

(2) If no payload license, authorization, or permit is required by any Federal law, the Secretary may take such action under this Act as the Secretary deems necessary to prevent the launch of a payload by a holder of a launch license under this Act if the Secretary determines that the launch of such payload would jeopardize the

public health and safety, safety of property, or any national security interest or foreign policy interest of the United States.

(c)(1) Except as provided in this Act, no person shall be required to obtain from any agency a license, approval, waiver, or exemption for the launch of a launch vehicle or the operation of a launch site.

(2) Nothing in this Act shall affect the authority of the Federal Communications Commission under the Communications Act of 1934 (47 U.S.C. 151 et seq.) or the authority of the Secretary of Commerce under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.).

AUTHORITY TO ISSUE AND TRANSFER LICENSES

49 USC app. 2606.

SEC. 7. The Secretary may, consistent with the public health and safety, safety of property, and national security interests and foreign policy interests of the United States, issue or transfer a license for launching one or more launch vehicles or for operating one or more launch sites, or both, to an applicant who meets the requirements for a license under section 8 of this Act. Any license issued or transferred under this section shall be in effect for such period of time as the Secretary may specify, in accordance with regulations issued under this Act.

LICENSING REQUIREMENTS

49 USC app. 2607.

SEC. 8. (a)(1) All requirements of Federal law which apply to the launch of a launch vehicle or the operation of a launch site shall be requirements for a license under this Act for the launch of a launch vehicle or the operation of a launch site, respectively, except to the extent provided in paragraph (2).

(2) If the Secretary determines, in consultation with appropriate agencies, that any requirement of Federal law that would otherwise apply to the launch of a launch vehicle or the operation of a launch site is not necessary to protect the public health and safety, safety of property, and national security interests and foreign policy interests of the United States, the Secretary may by regulation provide that such requirement shall not be a requirement for a license under this Act.

(b) The Secretary may, with respect to launches and the operation of launch sites, prescribe such additional requirements as are necessary to protect the public health and safety, safety of property, and national security interests and foreign policy interests of the United States.

(c) The Secretary may, in individual cases, waive the application of any requirement for a license under this section if the Secretary determines that such waiver is in the public interest and will not jeopardize the public health and safety, safety of property, or any national security interest or foreign policy interest of the United States.

LICENSE APPLICATION AND APPROVAL

49 USC app. 2608.

SEC. 9. (a) Any person may apply to the Secretary for issuance or transfer of a license under this Act, in such form and manner as the Secretary may prescribe. The Secretary shall establish procedures and timetables to expedite review of applications under this section and to reduce regulatory burdens for applicants.

(b) The Secretary shall issue or transfer a license to an applicant if the Secretary determines in writing that the applicant complies and will continue to comply with the requirements of this Act and any regulation issued under this Act. The Secretary shall include in such license such conditions as may be necessary to ensure compliance with this Act, including an effective means of on-site verification that a launch or operation of a launch site conforms to representations made in the application for a license or transfer of a license. The Secretary shall make a determination on any application not later than 180 days after receipt of such application. If the Secretary has not made a determination within 120 days after receipt of such application, the Secretary shall inform the applicant of any pending issues and of actions required to resolve such issues.

(c) The Secretary, any officer or employee of the United States, or any person with whom the Secretary has entered into a contract under section 14(b) of this Act may not disclose any data or information under this Act which qualifies for exemption under section 552(b)(4) of title 5, United States Code, or is designated as confidential by the person or agency furnishing such data or information, unless the Secretary determines that the withholding of such data or information is contrary to the public or national interest.

SUSPENSION, REVOCATION, AND MODIFICATION OF LICENSES

49 USC app. 2609.

SEC. 10. (a) The Secretary may suspend or revoke any license issued or transferred under this Act if the Secretary finds that the licensee has substantially failed to comply with any requirement of this Act, the license, or any regulation issued under this Act, or that the suspension or revocation is necessary to protect the public health and safety, safety of property, or any national security interest or foreign policy interest of the United States.

(b) Upon application by the licensee or upon the Secretary's own initiative, the Secretary may modify a license issued or transferred under this Act, if the Secretary finds that the modification will comply with the requirements of this Act.

(c) Unless otherwise specified by the Secretary, any suspension, revocation, or modification by the Secretary under this section—

(1) shall take effect immediately; and

(2) shall continue in effect during any review of such action under section 12 of this Act.

(d) Whenever the Secretary takes any action under this section, the Secretary shall notify the licensee in writing of the Secretary's finding and the action which the Secretary has taken or proposes to take regarding such finding.

EMERGENCY ORDERS

Prohibition.
49 USC app. 2610.

SEC. 11. (a) The Secretary may terminate, prohibit, or suspend immediately the launch of a launch vehicle or the operation of a launch site which is licensed under this Act if the Secretary determines that such launch or operation is detrimental to the public health and safety, safety of property, or any national security interest or foreign policy interest of the United States.

(b) An order terminating, prohibiting, or suspending any launch or operation of a launch site licensed by the Secretary under this Act shall take effect immediately and shall continue in effect during any review of such order under section 12.

ADMINISTRATIVE AND JUDICIAL REVIEW

49 USC app. 2611.

SEC. 12. (a)(1) An applicant for a license and a proposed transferee of a license under this Act shall be entitled to a determination on the record after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, of any decision of the Secretary under section 9(b) to issue or transfer a license with conditions or to deny the issuance or transfer of such license. An owner or operator of a payload shall be entitled to a determination on the record after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, of any decision of the Secretary under section 6(b)(2) to prevent the launch of such payload.

(2) A licensee under this Act shall be entitled to a determination on the record after an opportunity for a hearing in accordance with section 554 of title 5, United States Code, of any decision of the Secretary—

(A) under section 10 to suspend, revoke, or modify a license; or

(B) under section 11 to terminate, prohibit, or suspend any launch or operation of a launch site licensed by the Secretary.

(b) Any final action of the Secretary under this Act to issue, transfer, deny the issuance or transfer of, suspend, revoke, or modify a license or to terminate, prohibit, or suspend any launch or operation of a launch site licensed by the Secretary or to prevent the launch of a payload shall be subject to judicial review as provided in chapter 7 of title 5, United States Code.

REGULATIONS

49 USC app. 2612.

SEC. 13. The Secretary may issue such regulations, after notice and comment in accordance with section 553 of title 5, United States Code, as may be necessary to carry out this Act.

MONITORING OF ACTIVITIES OF LICENSEES

49 USC app. 2613.

SEC. 14. (a) Each license issued or transferred under this Act shall require the licensee—

(1) to allow the Secretary to place Federal officers or employees or other individuals as observers at any launch site used by the licensee, at any production facility or assembly site used by a contractor of the licensee in the production or assembly of a launch vehicle, or at any site where a payload is integrated with a launch vehicle, in order to monitor the activities of the licensee or contractor at such time and to such extent as the Secretary considers reasonable and necessary to determine compliance with the license or to carry out the responsibilities of the Secretary under section 6(b) of this Act; and

(2) to cooperate with such observers in the performance of monitoring functions.

(b) The Secretary may, to the extent provided in advance by appropriation Acts, enter into a contract with any person to carry out subsection (a)(1) of this section.

USE OF GOVERNMENT PROPERTY

49 USC app. 2614.

SEC. 15. (a) The Secretary shall take such actions as may be necessary to facilitate and encourage the acquisition (by lease, sale, transaction in lieu of sale, or otherwise) by the private sector of launch property of the United States which is excess or is otherwise not needed for public use and of launch services, including utilities, of the United States which are otherwise not needed for public use.

(b)(1) The amount to be paid to the United States by any person who acquires launch property or launch services, including utilities, shall be established by the agency providing the property or service, in consultation with the Secretary. In the case of acquisition of launch property by sale or transaction in lieu of sale, the amount of such payment shall be the fair market value. In the case of any other type of acquisition of launch property, the amount of such payment shall be an amount equal to the direct costs (including any specific wear and tear and damage to the property) incurred by the United States as a result of the acquisition of such launch property. In the case of any acquisition of launch services, including utilities, the amount of such payment shall be an amount equal to the direct costs (including salaries of United States civilian and contractor personnel) incurred by the United States as a result of the acquisition of such launch services.

(2) The Secretary may collect any payment for launch property or launch services, with the consent of the agency establishing such payment under paragraph (1).

(3) The amount of any payment received by the United States for launch property or launch services, including utilities, under this subsection shall be deposited in the general fund of the Treasury, and the amount of a payment for launch property (other than launch property which is excess) and launch services (including utilities) shall be credited to the appropriation from which the cost of providing such property or services was paid.

(c) The Secretary may establish requirements for liability insurance, hold harmless agreements, proof of financial responsibility, and such other assurances as may be needed to protect the United States and its agencies and personnel from liability, loss, or injury as a result of a launch or operation of a launch site involving Government facilities or personnel.

LIABILITY INSURANCE

49 USC app. 2615.

SEC. 16. Each person who launches a launch vehicle or operates a launch site under a license issued or transferred under this Act shall have in effect liability insurance at least in such amount as is considered by the Secretary to be necessary for such launch or operation, considering the international obligations of the United States. The Secretary shall prescribe such amount after consultation with the Attorney General and other appropriate agencies.

ENFORCEMENT AUTHORITY

49 USC app. 2616.

SEC. 17. (a) The Secretary shall enforce this Act. The Secretary may delegate the exercise of any enforcement authority under this Act to any officer or employee of the Department of Transportation or, with the approval of the head of another agency, any officer or employee of such agency.

(b) In carrying out this section, the Secretary may—

(1) make investigations and inquiries, and administer to or take from any person an oath, affirmation, or affidavit, concerning any matter relating to enforcement of this Act; and

(2) pursuant to any lawful process—

(A) enter at any reasonable time any launch site, production facility, or assembly site of a launch vehicle, or any site where a payload is integrated with a launch vehicle, for the purpose of inspecting any object which is subject to this Act and any records or reports required by the Secretary to be made or kept under this Act; and

(B) seize any such object, record, or report where there is probable cause to believe that such object, record, or report was used, is being used, or is likely to be used in violation of this Act.

PROHIBITED ACTS

49 USC app. 2617.

SEC. 18. It is unlawful for any person to violate a requirement of this Act, a regulation issued under this Act, or any term, condition, or restriction of any license issued or transferred by the Secretary under this Act.

CIVIL PENALTIES

49 USC app. 2618.

SEC. 19. (a) Any person who is found by the Secretary, after notice and opportunity to be heard on the record in accordance with section 554 of title 5, United States Code, to have committed any act prohibited by section 18 shall be liable to the United States for a civil penalty of not more than $100,000 for each violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty shall be assessed by the Secretary by written notice. The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(b) If any person fails to pay a civil penalty assessed against such person after the penalty has become final or if such person appeals an order of the Secretary and the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall recover the civil penalty assessed in any appropriate district court of the United States.

(c) For purposes of conducting any hearing under this section, the Secretary may (1) issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, documents, and other records, (2) seek enforcement of such subpoenas in the appropriate district court of the United States, and (3) administer oaths and affirmations.

CONSULTATION

Defense and national security.

49 USC app. 2619.

SEC. 20. (a) The Secretary shall consult with the Secretary of Defense on all matters, including the issuance or transfer of each license, under this Act affecting national security. The Secretary of Defense shall be responsible for identifying and notifying the Secretary of those national security interests of the United States which are relevant to activities under this Act.

(b) The Secretary shall consult with the Secretary of State on all matters, including the issuance or transfer of each license, under this Act affecting foreign policy. The Secretary of State shall be responsible for identifying and notifying the Secretary of those foreign policy interests or obligations of the United States which are relevant to activities under this Act.

(c) The Secretary shall consult with other agencies, as appropriate, in order to carry out the provisions of this Act.

RELATIONSHIP TO OTHER LAWS AND INTERNATIONAL OBLIGATIONS

Prohibitions.
49 USC app. 2620.

SEC. 21. (a) No State or political subdivision of a State may adopt or have in effect any law, rule, regulation, standard, or order which is inconsistent with the provisions of this Act. Nothing in this Act shall preclude a State or a political subdivision of a State from adopting or putting into effect any law, rule, regulation, standard, or order which is consistent with this Act and is in addition to or more stringent than any requirement of or regulation issued under this Act. The Secretary may, and is encouraged to, consult with the States to simplify and expedite the approval of space launch activities.

(b) A launch vehicle or payload shall not, by reason of the launching of such vehicle or payload, be considered an export for purposes of any law controlling exports.

(c) Nothing in this Act shall apply to—

(1) any—

(A) launch or operation of a launch vehicle,

(B) operation of a launch site, or

(C) other space activity,

carried out by the United States on behalf of the United States; or

(2) any planning or policies relating to any such launch, operation, or activity.

(d) The Secretary shall carry out this Act consistent with any obligation assumed by the United States in any treaty, convention, or agreement that may be in force between the United States and any foreign nation. In carrying out this Act, the Secretary shall consider applicable laws and requirements of any foreign nation.

REPORT ON LEGISLATION

Report.
49 USC app. 2621.

SEC. 22. (a) Not later than the last day of each fiscal year ending after the date of enactment of this Act and before October 1, 1989, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report describing all activities undertaken under this Act, including a description of the process for the application for and approval of licenses under this Act and recommendations for legislation that may further commercial launches.

(b) Not later than July 1, 1985, the Secretary shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report which identifies Federal statutes, treaties, regulations, and policies which may have an adverse effect on commercial launches and include recommendations on appropriate changes thereto.

SEVERABILITY

49 USC app. 2622.

SEC. 23. If any provision of this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the application of such provision to any other person or circumstance shall not be affected by such invalidation.

AUTHORIZED APPROPRIATIONS

49 USC app. 2623.

SEC. 24. There are authorized to be appropriated to the Secretary $4,000,000 for fiscal year 1985.

EFFECTIVE DATE

49 USC app. 2601 note.

SEC. 25. (a) Except for section 15 and the authority to issue regulations, this Act shall take effect 180 days after the date of enactment of this Act.

(b) Section 15 shall take effect on the date of enactment of this Act, except that nothing in this Act shall affect any agreement, including negotiations which are substantially completed, relating to the acquisition of launch property or launch services of the United States entered into on or before the date of enactment of this Act between the United States and any private party.

Regulations.

(c) Regulations to implement this Act shall be promulgated not later than 180 days after the date of enactment of this Act.

Approved October 30, 1984.

LEGISLATIVE HISTORY—H.R. 3942:

HOUSE REPORT No. 98-816 (Comm. on Science and Technology).
SENATE REPORT No. 98-656 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 130 (1984):
  June 5, considered and passed House.
  Oct. 9, considered and passed Senate, amended; House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 20, No. 44 (1984):
  Oct. 30, Presidential statement.

Public Law 98-620
98th Congress

An Act

To amend title 28, United States Code, with respect to the places where court shall be held in certain judicial districts, and for other purposes.

Nov. 8, 1984
[H.R. 6163]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I

Trademark Clarification Act of 1984.

SHORT TITLE

SEC. 101. This title may be cited as the "Trademark Clarification Act of 1984".

15 USC 1051 note.

AMENDMENT TO THE TRADEMARK ACT

SEC. 102. Section 14(c) of the Trademark Act of 1946, commonly known as the Lanham Trademark Act (15 U.S.C. 1064(c)) is amended by adding before the semicolon at the end of such section a period and the following: "A registered mark shall not be deemed to be the common descriptive name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the common descriptive name of goods or services in connection with which it has been used".

DEFINITIONS

SEC. 103. Section 45 of such Act (15 U.S.C. 1127) is amended as follows:

(1) Strike out "The term 'trade-mark' includes any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify his goods and distinguish them from those manufactured or sold by others." and insert in lieu thereof the following: "The term 'trademark' includes any word, name, symbol, or device or any combination thereof adopted and used by a manufacturer or merchant to identify and distinguish his goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.".

(2) Strike out "The term 'service mark' means a mark used in the sale or advertising of services to identify the services of one person and distinguish them from the services of others." and insert in lieu thereof the following: "The term 'service mark' means a mark used in the sale or advertising of services to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown.".

(3) Add at the end of subparagraph (b) in the paragraph which begins "A mark shall be deemed to be 'abandoned'", the following new sentence: "Purchaser motivation shall not be a test for determining abandonment under this subparagraph.".

JUDGMENTS

SEC. 104. Nothing in this title shall be construed to provide a basis for reopening of any final judgment entered prior to the date of enactment of this title.

TITLE V—GOVERNMENT RESEARCH AND DEVELOPMENT PATENT POLICY

SEC. 501. Chapter 18 of title 35, United States Code, is amended—

(1) by adding "or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.)" immediately after "title" in section 201(d);

35 USC 201.

(2) by adding ": *Provided,* That in the case of a variety of plant, the date of determination (as defined in section 41(d) of the Plant Variety Protection Act (7 U.S.C. 2401(d))) must also occur during the period of contract performance" immediately after "agreement" in section 201(e);

Contracts with U.S.
Grants.
35 USC 202.

(3) in section 202(a), by amending clause (i) to read as follows: "(i) when the contractor is not located in the United States or does not have a place of business located in the United States or is subject to the control of a foreign government,"; by striking the word "or" before "ii", and by adding after the words "security of such activities" in the first sentence of such para-

graph, the following: "or, iv) when the funding agreement includes the operation of a Government-owned, contractor-operated facility of the Department of Energy primarily dedicated to that Department's naval nuclear propulsion or weapons related programs and all funding agreement limitations under this subparagraph on the contractor's right to elect title to a subject invention are limited to inventions occurring under the above two programs of the Department of Energy."

(4) by amending paragraphs (1) and (2) of section 202(b) to read as follows: 35 USC 202.

"(b)(1) The rights of the Government under subsection (a) shall not be exercised by a Federal agency unless it first determines that at least one of the conditions identified in clauses (i) through (iv) of subsection (a) exists. Except in the case of subsection (a)(iii), the agency shall file with the Secretary of Commerce, within thirty days after the award of the applicable funding agreement, a copy of such determination. In the case of a determination under subsection (a)(ii), the statement shall include an analysis justifying the determination. In the case of determinations applicable to funding agreements with small business firms, copies shall also be sent to the Chief Counsel for Advocacy of the Small Business Administration. If the Secretary of Commerce believes that any individual determination or pattern of determinations is contrary to the policies and objectives of this chapter or otherwise not in conformance with this chapter, the Secretary shall so advise the head of the agency concerned and the Administrator of the Office of Federal Procurement Policy, and recommend corrective actions.

Small business.

"(2) Whenever the Administrator of the Office of Federal Procurement Policy has determined that one or more Federal agencies are utilizing the authority of clause (i) or (ii) of subsection (a) of this section in a manner that is contrary to the policies and objectives of this chapter, the Administrator is authorized to issue regulations describing classes of situations in which agencies may not exercise the authorities of those clauses."; Regulations.

(4A) By adding at the end of section 202(b) the following new paragraph: Contracts with U.S. Grants.

"(4) If the contractor believes that a determination is contrary to the policies and objectives of this chapter or constitutes an abuse of discretion by the agency, the determination shall be subject to the last paragraph of section 203(2).".

(5) by amending paragraphs (1), (2), (3), and (4) of section 202(c) to read as follows: Contracts with U.S. Grants.

"(1) That the contractor disclose each subject invention to the Federal agency within a reasonable time after it becomes known to contractor personnel responsible for the administration of patent matters, and that the Federal Government may receive title to any subject invention not disclosed to it within such time.

"(2) That the contractor make a written election within two years after disclosure to the Federal agency (or such additional time as may be approved by the Federal agency) whether the contractor will retain title to a subject invention: *Provided*, That in any case where publication, on sale, or public use, has initiated the one year statutory period in which valid patent protection can still be obtained in the United States, the period for election may be shortened by the Federal agency to a date that is not more than sixty days prior to the end of the statutory period: *And provided further,* That the Federal Government may receive title to any subject invention in which the contractor does not elect to retain rights or fails to elect rights within such times.

"(3) That a contractor electing rights in a subject invention agrees to file a patent application prior to any statutory bar date that may occur under this title due to publication, on sale, or public use, and shall thereafter file corresponding patent applications in other countries in which it wishes to retain title within reasonable times, and that the Federal Government may receive title to any subject inventions in the United States or other countries in which the contractor has not filed patent applications on the subject invention within such times.

"(4) With respect to any invention in which the contractor elects rights, the Federal agency shall have a nonexclusive, nontransferrable, irrevocable, paid-up license to practice or have practiced for or on behalf of the United States any subject invention throughout the world: *Provided,* That the funding agreement may provide for such additional rights; including the right to assign or have assigned foreign patent rights in the subject invention, as are determined by the agency as necessary for meeting the obligations of the United States under any treaty, international agreement, arrangement of cooperation, memorandum of understanding, or similar arrangement, including military agreement relating to weapons development and production.".

International agreements. Defense and national security.

(6) by striking out "may" in section 202(c)(5) and inserting in lieu thereof "as well as any information on utilization or efforts at obtaining utilization obtained as part of a proceeding under section 203 of this chapter shall";

35 USC 202.

(7) by striking out "and which is not, itself, engaged in or does not hold a substantial interest in other organizations engaged in the manufacture or sales of products or the use of processes that might utilize the invention or be in competition with embodiments of the invention" in clause (A) of section 202(c)(7);

Contracts with U.S. Grants.

(8) by amending clauses (B)-(D) of section 202(c)(7) to read as follows: "(B) a requirement that the contractor share royalties with the inventor; (C) except with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, a requirement that the balance of any royalties or income earned by the contractor with respect to subject inventions, after payment of expenses (including payments to inventors) incidental to the administration of subject inventions, be utilized for the support of scientific research or education; (D) a requirement that, except where it proves infeasible after a reasonable inquiry, in the licensing of subject inventions shall be given to small business firms; and (E) with respect to a funding agreement for the operation of a Government-owned-contractor-operated facility, requirements (i) that after payment of patenting costs, licensing costs, payments to inventors, and other expenses incidental to the administration of subject inventions, 100 percent of the balance of any royalties or income earned and retained by the contractor during any fiscal year up to an amount equal to 5 percent of the annual budget of the facility, shall be used by the contractor for scientific research, development, and education consistent with the research and development mission and objectives of the facility, including activities

Small business.

that increase the licensing potential of other inventions of the facility; provided that if said balance exceeds 5 percent of the annual budget of the facility, that 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent shall be used for the same purposes as described above in this clause (D); and (ii) that, to the extent it provides the most effective technology transfer, the licensing of subject inventions shall be administered by contractor employees on location at the facility."

35 USC 203.

(9) by adding "(1. before the word "With" in the first line of section 203, and by adding at the end of section 203 the following:

Regulations.

"(2) A determination pursuant to this section or section 202(b)(4) shall not be subject to the Contract Disputes Act (41 U.S.C. § 601 et seq.). An administrative appeals procedure shall be established by regulations promulgated in accordance with section 206. Additionally, any contractor, inventor, assignee, or exclusive licensee adversely affected by a determination under this section may, at any time within sixty days after the determination is issued, file a petition in the United States Claims Court, which shall have jurisdiction to determine the appeal on the record and to affirm, reverse, remand or modify, ", as appropriate, the determination of the Federal agency. In cases described in paragraphs (a) and (c), the agency's determination shall be held in abeyance pending the exhaustion of appeals or petitions filed under the preceding sentence.";

35 USC 206.

(10) by amending section 206 to read as follows:

"§ 206. Uniform clauses and regulations

"The Secretary of Commerce may issue regulations which may be made applicable to Federal agencies implementing the provisions of sections 202 through 204 of this chapter and shall establish standard funding agreement provisions required under this chapter. The regulations and the standard funding agreement shall be subject to public comment before their issuance.";

(11) in section 207 by inserting "(a)" before "Each Federal" and by adding the following new subsection at the end thereof:

"(b) For the purpose of assuring the effective management of Government-owned inventions, the Secretary of Commerce is authorized to—

"(1) assist Federal agency efforts to promote the licensing and utilization of Government-owned inventions;

"(2) assist Federal agencies in seeking protection and maintaining inventions in foreign countries, including the payment of fees and costs connected therewith; and

"(3) consult with and advise Federal agencies as to areas of science and technology research and development with potential for commercial utilization."; and

(12) in section 208 by striking out "Administrator of General Services" and inserting in lieu thereof "Secretary of Commerce".

(13) by deleting from the first sentence of section 210(c), "August 23, 1971 (36 Fed. Reg. 16887)" and inserting in lieu thereof "February 18, 1983", and by inserting the following before the period at the end of the first sentence of section 210(c) "except that all funding agreements, including those with other than small business firms and nonprofit organizations, shall

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Grants.

include the requirements established in paragraph 202(c)(4) and section 203 of this title."

(14) by adding at the end thereof the following new section:

Prohibition.
35 USC 212.

"§ 212. Disposition of rights in educational awards

"No scholarship, fellowship, training grant, or other funding agreement made by a Federal agency primarily to an awardee for educational purposes will contain any provision giving the Federal agency any rights to inventions made by the awardee."; and

(15) by adding at the end of the table of sections for the chapter the following new item:

"212. Disposition of rights in educational awards.".

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 6163:

HOUSE REPORT No. 98-1062 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 130 (1984):
Sept. 24, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 9, House concurred in Senate amendments.

PUBLIC LAW 98-623—NOV. 8, 1984

INTERNATIONAL FISHERY AGREEMENTS, ETC.

Public Law 98-623
98th Congress

An Act

Nov. 8, 1984
[H.R. 6342]

To approve governing international fishery agreements with Iceland and the EEC; to establish national standards for artificial reefs; to implement the Convention on the Conservation of Antarctic Marine Living Resources; and for the other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—APPROVAL OF GOVERNING INTERNATIONAL FISHERY AGREEMENTS WITH ICELAND AND THE EEC

Notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823)—

(1) the governing international fishery agreement between the Government of the United States and the European Economic Community Concerning Fisheries Off the Coasts of the United States, as contained in the Message to Congress from the President of the United States dated August 27, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act, and may enter into force with respect to the United States in accordance with the terms of Article XIX of the agreement after the date of the enactment of this title, upon signature of the agreement by both parties; and

(2) the governing international fishery agreement between the Government of the United States and the Government of the Republic of Iceland Concerning Fisheries Off the Coasts of the United States, as contained in the message to Congress from the President of the United States dated September 29, 1984, is hereby approved by Congress as a governing international fishery agreement for purposes of that Act, and may enter into force with respect to the United States in accordance with the terms of Article XVI of the agreement after the date of the enactment of this title.

National Fishing Enhancement Act of 1984.
33 USC 2101 note.

TITLE II—ARTIFICIAL REEFS

SEC. 201. SHORT TITLE.

This title may be cited as the "National Fishing Enhancement Act of 1984".

33 USC 2101.

SEC. 202. FINDINGS AND CONCLUSIONS.

(a) FINDINGS.—The Congress finds that—

(1) although fishery products provide an important source of protein and industrial products for United States consumption, United States fishery production annually falls far short of satisfying United States demand;

(2) overfishing and the degradation of vital fishery resource habitats have caused a reduction in the abundance and diversity of United States fishery resources;

Energy.

(3) escalated energy costs have had a negative effect on the economics of United States commercial and recreational fisheries;

(4) commercial and recreational fisheries are a prominent factor in United States coastal economies and the direct and indirect returns to the United States economy from commercial and recreational fishing expenditures are threefold; and

(5) properly designed, constructed, and located artificial reefs in waters covered under this title can enhance the habitat and diversity of fishery resources; enhance United States recreational and commercial fishing opportunities; increase the production of fishery products in the United States; increase the energy efficiency of recreational and commercial fisheries; and contribute to the United States and coastal economies.

(b) PURPOSE.—The purpose of this title is to promote and facilitate responsible and effective efforts to establish artificial reefs in waters covered under this title.

33 USC 2102.

SEC. 203. ESTABLISHMENT OF STANDARDS.

Water.

Based on the best scientific information available, artificial reefs in waters covered under this title shall be sited and constructed, and subsequently monitored and managed in a manner which will—

(1) enhance fishery resources to the maximum extent practicable;

(2) facilitate access and utilization by United States recreational and commercial fishermen;

(3) minimize conflicts among competing uses of waters covered under this title and the resources in such waters;

Pollution.

(4) minimize environmental risks and risks to personal health and property; and

(5) be consistent with generally accepted principles of international law and shall not create any unreasonable obstruction to navigation.

33 USC 2103.

SEC. 204. NATIONAL ARTIFICIAL REEF PLAN.

Not later than one year after the date of enactment of this title, the Secretary of Commerce, in consultation with the Secretary of the Interior, the Secretary of Defense, the Administrator of the Environmental Protection Agency, the Secretary of the Department in which the Coast Guard is operating, the Regional Fishery Management Councils, interested States, Interstate Fishery Commissions, and representatives of the private sector, shall develop and publish a long-term plan which will meet the purpose of this title and be consistent with the standards established under section 203. The plan must include—

Research and development.

(1) geographic, hydrographic, geologic, biological, ecological, social, economic, and other criteria for siting artificial reefs;

(2) design, material, and other criteria for constructing artificial reefs;

(3) mechanisms and methodologies for monitoring the compliance of artificial reefs with the requirements of permits issued under section 205;

(4) mechanisms and methodologies for managing the use of artificial reefs;

(5) a synopsis of existing information on artificial reefs and needs for further research on artificial reef technology and management strategies; and

(6) an evaluation of alternatives for facilitating the transfer of artificial reef construction materials to persons holding permits issued pursuant to section 205, including, but not limited to, credits for environmental mitigation and modified tax obligations.

Taxes.

33 USC 2104.

SEC. 205. PERMITS FOR THE CONSTRUCTION AND MANAGEMENT OF ARTIFICIAL REEFS.

Pollution.

33 USC 403.
33 USC 1344.
43 USC 1333.

(a) Secretarial Action on Permits.—In issuing a permit for artificial reefs under section 10 of the Rivers and Harbors Act of 1899, section 404 of the Federal Water Pollution Control Act, or section 4(e) of the Outer Continental Shelf Lands Act, the Secretary of the Army (hereinafter in this section referred to as the "Secretary") shall—

State and local governments.

(1) consult with and consider the views of appropriate Federal agencies, States, local governments, and other interested parties;

(2) ensure that the provisions for siting, constructing, monitoring, and managing the artificial reef are consistent with the criteria and standards established under this title;

(3) ensure that the title to the artificial reef construction material is unambiguous, and that responsibility for maintenance and the financial ability to assume liability for future damages are clearly established; and

(4) consider the plan developed under section 204 and notify the Secretary of Commerce of any need to deviate from that plan.

Pollution.

(b) Terms and Conditions of Permits.—(1) Each permit issued by the Secretary subject to this section shall specify the design and location for construction of the artificial reef and the types and quantities of materials that may be used in constructing such artificial reef. In addition, each such permit shall specify such terms and conditions for the construction, operation, maintenance, monitoring, and managing the use of the artificial reef as are necessary for compliance with all applicable provisions of law and as are necessary to ensure the protection of the environment and human safety and property.

33 USC 1342.

(2) Before issuing a permit under section 402 of the Federal Water Pollution Control Act for any activity relating to the siting, design, construction, operation, maintenance, monitoring, or managing of an artificial reef, the Administrator of the Environmental Protection Agency shall consult with the Secretary to ensure that such permit is consistent with any permit issued by the Secretary subject to this section.

(c) Liability of Permittee.—(1) A person to whom a permit is issued in accordance with subsection (a) and any insurer of that person shall not be liable for damages caused by activities required to be undertaken under any terms and conditions of the permit, if the permittee is in compliance with such terms and conditions.

(2) A person to whom a permit is issued in accordance with subsection (a) and any insurer of that person shall be liable, to the extent determined under applicable law, for damages to which paragraph (1) does not apply.

(3) The Secretary may not issue a permit subject to this section to a person unless that person demonstrates to the Secretary the financial ability to assume liability for all damages that may arise

with respect to an artificial reef and for which such permittee may be liable.

(4) Any person who has transferred title to artificial reef construction materials to a person to whom a permit is issued in accordance with subsection (a) shall not be liable for damages arising from the use of such materials in an artificial reef, if such materials meet applicable requirements of the plan published under section 204 and are not otherwise defective at the time title is transferred.

(d) LIABILITY OF THE UNITED STATES.—Nothing in this title creates any liability on the part of the United States.

(e) CIVIL PENALTY.—Any person who, after notice and an opportunity for a hearing, is found to have violated any provision of a permit issued in accordance with subsection (a) shall be liable to the United States for a civil penalty, not to exceed $10,000 for each violation. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation. The Secretary may compromise, modify, or remit with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section. If any person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection.

SEC. 206. DEFINITIONS.

33 USC 2105.

For purposes of this title—

(1) The term "artificial reef" means a structure which is constructed or placed in waters covered under this title for the purpose of enhancing fishery resources and commercial and recreational fishing opportunities.

(2) The term "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, American Samoa, Guam, Johnston Island, Midway Island, and Wake Island.

(3) The term "waters covered under this title" means the navigable waters of the United States and the waters superjacent to the Outer Continental Shelf as defined in section 2 of the Outer Continental Shelf Lands Act (43 U.S.C. section 1331), to the extent such waters exist in or are adjacent to any State.

SEC. 207. USE OF CERTAIN VESSELS AS ARTIFICIAL REEFS.

The Act entitled "An Act to authorize appropriations for the fiscal year 1973 for certain maritime programs of the Department of Commerce and for other purposes", approved August 22, 1972 (16 U.S.C. 1220-1220c), is amended—

(1) by striking out "Liberty" each place it appears in sections 3, 4, 5, and 6 and inserting in lieu thereof "obsolete";

(2) by striking out "Commerce" in section 3 and inserting in lieu thereof "Transportation"; 16 USC 1220.

(3) by striking out "shall" in the matter preceding paragraph (1) in section 4 and inserting in lieu thereof "may", and 16 USC 1220a.

(4) by adding at the end thereof the following new section:

"SEC. 7. For purposes of sections 3, 4, 5, and 6, the term 'obsolete ship' means any vessel owned by the Department of Transportation that has been determined to be of insufficient value for commercial or national defense purposes to warrant its maintenance and preser- 16 USC 1220d.

vation in the national defense reserve fleet and has been designated as an artificial reef candidate.".

33 USC 2106.

SEC. 208. SAVINGS CLAUSES.

(a) TENNESSEE VALLEY AUTHORITY JURISDICTION.—Nothing in this title shall be construed as replacing or superseding section 26a of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y-1).

(b) STATE JURISDICTION.—Nothing in this title shall be construed as extending or diminishing the jurisdiction or authority of any State over the siting, construction, monitoring, or managing of artificial reefs within its boundaries.

Antarctic Marine Living Resources Convention Act of 1984.
16 USC 2431 note.

TITLE III—ANTARCTIC MARINE LIVING RESOURCES CONVENTION

SEC. 301. SHORT TITLE.

This title may be cited as the "Antarctic Marine Living Resources Convention Act of 1984".

16 USC 2431.

SEC. 302. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

TIAS 10240.

(1) the Convention on the Conservation of Antarctic Marine Living Resources establishes international mechanisms and creates legal obligations necessary for the protection and conservation of Antarctic marine living resources;

(2) the Convention incorporates an innovative ecosystem approach to the management of Antarctic marine living resources, including standards designed to ensure the health of the individual populations and species and to maintain the health of the Antarctic marine ecosystem as a whole;

(3) the Convention serves important United States environmental and resource management interests;

(4) the Convention represents an important contribution to United States long term legal and political objectives of maintenance of Antarctica as an area of peaceful international cooperation;

(5) United States basic and directed research programs concerning the marine living resources of the Antarctic are essential to achieve the United States goal of effective implementation of the objectives of the Convention; and

(6) the United States has important security, economic, and environmental interests in developing and maintaining a fleet of icebreaking vessels capable of operating effectively in the heavy ice regions of Antarctica.

(b) PURPOSE.—The purpose of this title is to provide the legislative authority necessary to implement, with respect to the United States, the Convention on the Conservation of Antarctic Marine Living Resources.

16 USC 2432.

SEC. 303. DEFINITIONS.

For purposes of this title—

(1) ANTARCTIC CONVERGENCE.—The term "Antarctic Convergence" means a line joining the following points along the parallels of latitude and meridians of longitude: 50 degrees south, 0 degrees; 50 degrees south, 30 degrees east; 45 degrees south, 30 degrees east; 45 degrees south, 80 degrees east; 55

degrees south, 80 degrees east; 55 degrees south, 150 degrees east; 60 degrees south, 150 degrees east; 60 degrees south; 50 degrees west; 50 degrees south, 50 degrees west; and 50 degrees south, 0 degrees.

(2) Antarctic marine living resources.—The term "Antarctic marine living resources" means the population of finfish, molluscs, crustaceans and all other species of living organisms, including birds, found south of the Antarctic Convergence.

(3) Commission.—The term "Commission" means the Commission for the Conservation of Antarctic Marine Living Resources established pursuant to article VII of the Convention. TIAS 10240.

(4) Convention.—The term "Convention" means the Convention on the Conservation of Antarctic Marine Living Resources, done at Canberra, Australia, May 7, 1980, and entered into force with respect to the United States on April 7, 1982.

(5) Harvesting or other associated activities.—The terms "harvesting" and "harvesting or other associated activities" mean—

(A) the harassing, molesting, harming, pursuing, hunting, shooting, wounding, killing, trapping, or capturing of Antarctic marine living resources;

(B) attempting to engage in any activity set forth in subparagraph (A);

(C) any other activity which can reasonably be expected to result in any activity described in subparagraph (A); and

(D) any operations at sea in support of, or in preparation for, any activity described in subparagraphs (A) through (C).

(6) Harvest.—The term "harvest" means to engage in harvesting or other associated activities.

(7) Import.—The term "import" means to land on, bring into, or introduce into, or attempt to land on, bring into, or introduce into, any place subject to the jurisdiction of the United States, whether or not such landing constitutes an importation within the meaning of the customs laws of the United States.

(8) Person.—The term "person" means an individual, partnership, corporation, trust, association, and any other entity subject to the jurisdiction of the United States.

(9) Scientific committee.—The term "Scientific Committee" means the Scientific Committee for the Conservation of Antarctic Marine Living Resources established pursuant to article XIV of the Convention.

(10) Vessel of the united states.—The term "vessel of the United States" means—

(A) a vessel documented under chapter 121 of title 46, United States Code, or a vessel numbered as provided in chapter 123 of that title;

97 Stat. 584.
46 USC 12101 *et seq.*
97 Stat. 590.
46 USC 12301 *et seq.*

(B) a vessel owned in whole or in part by—

(i) the United States or a territory, commonwealth, or possession of the United States;

(ii) a State or political subdivision thereof;

(iii) a citizen or national of the United States; or

(iv) a corporation created under the laws of the United States or any State, the District of Columbia, or any territory, commonwealth, or possession of the United States;

unless the vessel has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas; and

13 UST 2312.

(C) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was either sold to a person not a citizen of the United States or placed under foreign registry or a foreign flag, whether or not the vessel has been granted the nationality of a foreign nation in accordance with Article 5 of the 1958 Convention on the High Seas.

(11) VESSEL SUBJECT TO THE JURISDICTION OF THE UNITED STATES.—The term "vessel subject to the jurisdiction of the United States" includes a vessel without nationality or a vessel assimilated to a vessel without nationality, in accordance with paragraph (2) of Article 6 of the 1958 Convention on the High Seas.

16 USC 2433.

SEC. 304. REPRESENTATIVES.

(a) REPRESENTATIVE TO THE COMMISSION.—The Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, shall appoint an officer or employee of the United States as the United States representative to the Commission.

(b) REPRESENTATIVE TO THE SCIENTIFIC COMMITTEE.—The Secretary of Commerce and the Director of the National Science Foundation, with the concurrence of the Secretary of State, shall designate the United States representative to the Scientific Committee.

(c) COMPENSATION.—The United States representatives to the Commission and the Scientific Committee shall receive no additional compensation by reason of their services as such representatives.

16 USC 2434.

SEC. 305. CONSERVATION MEASURES; SYSTEM OF OBSERVATION AND INSPECTION.

(a) CONSERVATION MEASURES.—(1) The Secretary of State, with the concurrence of the Secretary of Commerce and the Director of the National Science Foundation, is authorized—

(A) to decide on behalf of the United States whether the United States is unable to accept or can no longer accept a conservation measure adopted by the Commission pursuant to article IX of the Convention, and

(B) to notify the Commission of any such decision in accordance with article IX of the Convention.

Federal Register, publication.

(2) The Secretary of State shall—

(A) publish in the Federal Register, if practicable, timely notice of each proposed decision under paragraph (1) and invite written public comment regarding it; and

(B) publish in the Federal Register notice of each notification made to the Commission under paragraph (1).

(b) SYSTEM OF OBSERVATION AND INSPECTION.—The Secretary of State, with the concurrence of the Secretary of Commerce, the Director of the National Science Foundation and the Secretary of the department in which the Coast Guard is operating, is authorized to agree on behalf of the United States to the establishment of a system of observation and inspection, and to interim arrangements pending establishment of such a system, pursuant to article XXIV of the Convention.

Report

(c) Communications From the Commission.—The Secretary of State is further authorized to receive, on behalf of the United States Government, reports, requests, and other communications from the Commission and to take appropriate action on them, either directly or by reference to the appropriate authority.

Law enforcement.
16 USC 2435.
Conservation.
TIAS 10240.

SEC. 306. UNLAWFUL ACTIVITIES.

It is unlawful for any person—

(1) to engage in harvesting or other associated activities in violation of the provisions of the Convention or in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention;

(2) to violate any regulation promulgated under this title;

(3) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control or possession of, any Antarctic marine living resource (or part or product thereof) which he knows, or reasonably should have known, was harvested in violation of a conservation measure in force with respect to the United States pursuant to article IX of the Convention or in violation of any regulation promulgated under this title, without regard to the citizenship of the person that harvested, or vessel that was used in the harvesting of, the Antarctic marine living resource (or part or product thereof);

(4) to refuse to permit any authorized officer or employee of the United States to board a vessel of the United States or a vessel subject to the jurisdiction of the United States for purposes of conducting any search or inspection in connection with the enforcement of the Convention, this title, or any regulations promulgated under this title;

(5) to assault, resist, oppose, impede, intimidate, or interfere with any authorized officer or employee of the United States in the conduct of any search or inspection described in paragraph (4);

(6) to resist a lawful arrest or detention for any act prohibited by this section; or

(7) to interfere with, delay, or prevent, by any means, the apprehension, arrest, or detention of another person, knowing that such other person has committed any act prohibited by this section.

16 USC 2436.

SEC. 307. REGULATIONS.

The Secretary of Commerce, after consultation with the Secretary of State, the Secretary of the department in which the Coast Guard is operating, and the heads of other appropriate departments or agencies of the United States, shall promulgate such regulations as are necessary and appropriate to implement the provisions of this title.

Prohibition.
16 USC 2437.

SEC. 308. CIVIL PENALTIES.

(a) Assessment of Penalties.—(1) Any person who is found by the Secretary of Commerce, after notice and opportunity for a hearing in accordance with subsection (b), to have committed any act prohibited by section 306 shall be liable to the United States for a civil penalty. The amount of the civil penalty shall not exceed $5,000 for each violation unless the prohibited act was knowingly committed, in which case the amount of the civil penalty shall not exceed $10,000 for each violation. Each day of a continuing violation shall constitute a separate violation for purposes of this subsection. The amount of any civil penalty shall be assessed by the Secretary of Commerce by written notice. In determining the amount of such penalty, the Secretary of Commerce shall take into account the nature, circumstances, extent, and gravity of the prohibited acts committed, and, with respect to the person committing the violation, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require, to the extent that such information is reasonably available to the Secretary.

(2) The Secretary of Commerce may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section, until such time as the matter is referred to the Attorney General under subsection (c) of this section.

(b) HEARINGS.—Hearings for the assessment of civil penalties under subsection (a) shall be conducted in accordance with section 554 of title 5, United States Code. For the purposes of conducting any such hearing, the Secretary of Commerce may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contumacy or refusal to obey a subpoena served upon any person pursuant to this subsection, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the Attorney General of the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the Secretary of Commerce or to appear and produce documents before the Secretary of Commerce, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

Courts, U.S.

(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the appropriate district court of the United States by filing a notice of appeal in such court within 30 days from the date of such order and by simultaneously sending a copy of such notice by certified mail to the Secretary of Commerce, the Attorney General, and the appropriate United States Attorney. The Secretary of Commerce shall promptly refer the matter to the Attorney General of the United States, who shall file in such court a certified copy of the record upon which the violation was found or such penalty imposed, as provided in section 2112 of title 28, United States Code. The court shall set aside the findings and order of the Secretary if the findings and order are found to be unsupported by substantial evidence, as provided in section 706(2)(E) of title 5, United States Code.

Courts, U.S.

(d) RECOVERY OF CIVIL PENALTIES.—The Attorney General of the United States may seek to recover in any appropriate district court of the United States (1) any civil penalty imposed under this section that has become a final and unappealable order and has been referred to the Attorney General by the Secretary of Commerce or (2) any final judgment rendered under this section in favor of the United States by an appropriate Court.

(e) PENALTIES UNDER OTHER LAWS.—The assessment of a civil penalty under subsection (a) for any act shall not be deemed to preclude the assessment of a civil penalty for such act under any other law.

SEC. 309. CRIMINAL OFFENSES.

16 USC 2438.

Prohibition.

(a) OFFENSES.—A person is guilty of an offense if that person commits any act prohibited by paragraph (4), (5), (6), or (7) of section 306.

(b) PUNISHMENT.—Any offense described in subsection (a) is punishable by a fine of $50,000, or imprisonment for not more than ten years, or both.

(c) OFFENSES UNDER OTHER LAWS.—A conviction under subsection (a) for any act shall not be deemed to preclude a conviction for such act under any other law.

SEC. 310. ENFORCEMENT.

16 USC 2439.

(a) RESPONSIBILITY.—The provisions of this title shall be enforced by the Secretary of Commerce and the Secretary of the department in which the Coast Guard is operating. Such Secretaries may utilize by agreement, on a reimbursable basis or otherwise, the personnel, services, and facilities of any other department or agency of the United States in the performance of such duties.

(b) POWERS OF AUTHORIZED OFFICERS AND EMPLOYEES.—Any officer or employee of the United States who is authorized (by the Secretary of Commerce, the Secretary of the department in which the Coast Guard is operating, or the head of any department or agency of the United States which has entered into an agreement with either Secretary under subsection (a)) to enforce the provisions of this title and of any regulation promulgated under this title may, in enforcing such provisions—

(1) secure, execute, and serve any order, warrant, subpoena, or other process, which is issued under the authority of the United States;

(2) search without warrant any person, place, vehicle or aircraft subject to the jurisdiction of the United States where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 306;

Vessels.

(3) with or without a warrant board and search or inspect any vessel of the United States or vessel subject to the jurisdiction of the United States;

(4) seize without warrant—

(A) any evidentiary item where there are reasonable grounds to believe that a person has committed or is attempting to commit an act prohibited by section 306,

(B) any Antarctic marine living resources (or part of product thereof) with respect to which such an act is committed,

(C) any vessel of the United States (including its gear, furniture, appurtenances, stores, and cargo), any vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stores, and cargo), and any vehicle, aircraft, or other means of transportation subject to the jurisdiction of the United States used in connection with such an act, and

(D) any guns, traps, nets, or equipment used in connection with such an act;

(5) offer and pay rewards for services or information which may lead to the apprehension of persons violating such provisions;

(6) make inquiries, and administer to, or take from, any person an oath, affirmation, or affidavit, concerning any matter which is related to the enforcement of such provisions;

(7) in coordination with the Secretary of the Treasury, detain for inspection and inspect any package, crate, or other container, including its contents, and all accompanying documents, upon importation into, or exportation from, the United States;

(8) make an arrest with or without a warrant with respect to any act prohibited by paragraph (4), (5), (6), or (7) of section 306 if such officer or employee has reasonable grounds to believe that the person to be arrested is committing such act in his or her presence or view or has committed such act;

(9) exercise enforcement powers conferred on such officer or employee under a system of observation and inspection, or interim arrangements pending the establishment of such a system, which the Secretary of State has agreed to on behalf of the United States pursuant to section 305(b); and

(10) exercise any other authority which such officer or employee is permitted by law to exercise.

(c) SEIZURE.—Subject to the succeeding provisions of this subsection, any property or item seized pursuant to subsection (b) shall be held by any officer or employee of the United States, who is authorized by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, pending the disposition of civil or criminal proceedings concerning the violation relating to the property or item, or the institution of an action in rem for the forfeiture of such property or item. Such authorized officer or employee may, upon the order of a court of competent jurisdiction, either release such seized property or item to the wild or destroy such property or item, when the cost of maintenance of the property or item pending the disposition of the case is greater than the legitimate market value of the property or item. Such authorized officer or employee and all officers or employees acting by or under his or her direction shall be indemnified from any penalties or actions for damages for so releasing or destroying such property or item. Such authorized officer or employee may, in lieu of holding such property or item, permit the owner or consignee thereof to post a bond or other satisfactory surety.

(d) FORFEITURE.—(1) Any Antarctic marine living resource (or part or product thereof) with respect to which an act prohibited by section 306 is committed, any vessel of the United States (including its gear, furniture, appurtenances, stoves, and cargo), vessel subject to the jurisdiction of the United States (including its gear, furniture, appurtenances, stoves, and cargo), or vessel, vehicle, or aircraft or other means of transportation subject to the jurisdiction of the United States, which is used in connection with an act prohibited by section 306, and all guns, traps, nets, and other equipment used in connection with such act, shall be subject to forfeiture to the United States.

(2) Upon the forfeiture to the United States of any property or item described in paragraph (1), or upon the abandonment or waiver of any claim to any such property or item, it shall be disposed of by the Secretary of Commerce, or the Secretary of the department in which the Coast Guard is operating, as the case may be, in such a

manner, consistent with the purposes of this title, as may be prescribed by regulation.

(e) Application of Customs Laws.—All provisions of law relating to the seizure, forfeiture, and condemnation of property (including vessels) for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, and the remission or mitigation of such forfeiture, shall apply to the seizures and forfeitures incurred, or alleged to have been incurred, and the compromise of claims, under the provisions of this title, insofar as such provisions of law are applicable and not inconsistent with the provisions of this title; except that all powers, rights, and duties conferred or imposed by the customs laws upon any officer or employee of the Customs Service may, for the purposes of this title, also be exercised or performed by the Secretary of Commerce or the Secretary of the department in which the Coast Guard is operating, or by such officers or employees of the United States as each Secretary may designate.

SEC. 311. JURISDICTION OF COURTS.

16 USC 2440.

The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this title or of any regulation promulgated under this title.

SEC. 312. FEDERAL AGENCY COOPERATION.

Research and development.
16 USC 2441.

(a) Responsibilities.—(1) For the purpose of carrying out the policies and objectives of the Convention or to implement any decision of the Commission—

(A) the Director of the National Science Foundation, in consultation with the Secretary of State and the heads of other appropriate departments and agencies of the United States, shall continue to support basic research investigations of the Antarctic marine ecosystem as a part of the United States Antarctic Program;

Science and technology.

(B) the Secretary of Commerce, in consultation with the Director of the National Science Foundation, the Secretary of State and the heads of other appropriate Federal agencies, shall design and conduct the program of directed scientific research as set forth in paragraph 2 supplemental to and coordinated with the United States Antarctic Program; and

(C) the Secretary of Commerce and the Director of the National Science Foundation, in consultation with the Secretary of State, may furnish facilities and personnel to the Commission in order to assist the Commission in carrying out its functions.

(2)(A) The Secretary of Commerce, in consultation with the Secretary of State, the Director of the National Science Foundation, and other appropriate Federal officials, shall prepare a plan, which shall be updated annually, for conducting the directed research program required under paragraph (1)(B) for each period of three consecutive fiscal years occurring during the period beginning on October 1, 1985, and ending on September 30, 1991. The plan shall—

(i) describe priority directed research needs for the implementation of the Convention;

(ii) identify which of those needs are to be fulfilled by the United States; and

(iii) specify the design of the research referred to in paragraph (1)(B) and the funds, personnel, and facilities required for the research, including, in particular, the need for the cost of enhanced ship capacity.

(B) In preparing the plan referred to in subparagraph (A), the Secretary of Commerce shall take into account, in addition to any other matters the Secretary considers appropriate, the possibilities of securing productive results, the minimization of duplication, and the methods for monitoring and evaluating a project.

(C) The Secretary of Commerce shall submit to the Congress each year the plan required under subparagraph (A). That part of the plan covering fiscal years 1986 through 1988 shall be submitted not later than October 1, 1985. That part of the plan covering each 3-fiscal-year period thereafter shall be submitted not later than the February 1 occurring before the beginning of the first fiscal year covered by that part of the plan.

(b) CONSULTATION WITH OTHER AGENCIES.—In carrying out their functions under this section, the Secretary of State, the Secretary of Commerce, and the Director of the National Science Foundation shall consult, as appropriate, with the Marine Mammal Commission and with other departments and agencies of the United States.

Uniformed services.

(c) ICEBREAKING.—The Department of Transportation shall facilitate planning for the design, procurement, maintenance, deployment, and operation of icebreakers needed to provide a platform for Antarctic research. All funds necessary to support icebreaking operations, except for recurring incremental costs associated with specific projects, shall be allocated to the United States Coast Guard.

16 USC 2442.

SEC. 313. RELATIONSHIP TO EXISTING TREATIES AND STATUTES.

(a) IN GENERAL.—Nothing in this Act shall be construed as contravening or superseding (1) the provisions of any international treaty, convention, or agreement, if such treaty, convention or agreement is in force with respect to the United States on the date of the enactment of this title, or (2) the provisions of any statute which implements any such treaty, convention, or agreement. Nothing in this title shall be construed as contravening or superseding the provisions of any statute enacted before the date of the enactment of this title which may otherwise apply to Antarctic marine living resources.

TIAS 10240.

(b) APPLICATION OF MORE RESTRICTIVE PROVISIONS.—Nothing in this section shall be construed to prevent the application of provisions of the Convention, conservation measures adopted by the Commission pursuant to article IX of the Convention, or regulations promulgated under this title, which are more restrictive than the provisions of, measures adopted under, or regulations promulgated under, the treaties or statutes described in subsection (a).

16 USC 2443.

SEC 314. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated, out of any moneys in the Treasury not otherwise appropriated, such sums as may be necessary for carrying out the provisions of this title, including, but not limited to—

(1) necessary travel expenses of the United States representatives referred to in section 304, alternate United States representatives, and authorized advisers and experts, in accordance with sections 5701 through 5708, 5731, and 5733 of title 5, United States Code, and the regulations issued under those sections;

(2) the United States contribution to the budget of the Commission as provided in article XIX of the Convention; and TIAS 10240.

(3) the directed research program and the furnishing of facilities and personnel to the Commission referred to in section 312.

SEC. 315. SEVERABILITY. 16 USC 2444.

If any provision of this title or the application of this title to any person or circumstance is held invalid, neither the remainder of this title nor the application of that provision to other persons or circumstances shall be affected thereby.

TITLE IV—MISCELLANEOUS AMENDMENTS

SEC. 401. NOAA MARINE FISHERIES PROGRAM AUTHORIZATION ACT AMENDMENTS.

The National Oceanic and Atmospheric Administration Marine Fisheries Program Authorization Act (Public Law 98-210; 97 Stat. 1409) is amended as follows:

(1) Section 2 is amended—

(A) by inserting ", and $28,000,000 for fiscal year 1985" immediately after "1984" in subsection (a); and

(B) by striking out "of 1976" in subsection (b).

(2) Section 3 is amended—

(A) by inserting ", and $35,000,000 for fiscal year 1985" immediately after "1984" in subsection (a); and

(B) by inserting "Magnuson" immediately before "Fishery", and by striking out "of 1976", in subsection (b).

(3) Section 4 is amended—

(A) by amending subsection (a)—

(i) by inserting ", and $12,000,000 for fiscal year 1985" immediately after "1984", and

(ii) by striking out "boats" and inserting in lieu thereof "vessels"; and

(B) by striking out "of 1976" in subsection (b).

(4) Sections 2, 3, and 4 are each further amended by adding at the end thereof the following:

"(c) The duties authorized in subsection (a) of this section shall be considered separate and distinct from duties and functions performed pursuant to moneys authorized in subsection (b) of this section. The total authorization for all such duties and functions shall be the sum of amounts specified in such subsections.".

SEC. 402. AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL AQUACULTURE ACT OF 1980.

Paragraphs (1), (2), and (3) of section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809 (1), (2), and (3)) are amended to read as follows:

"(1) to the Department of Agriculture, $2,000,000 for each of fiscal years 1984 and 1985;

"(2) to the Department of Commerce, $2,000,000 for each of fiscal years 1984 and 1985; and

"(3) to the Department of the Interior, $1,000,000 for each of fiscal years 1984 and 1985.".

SEC. 403. AUTHORIZATION OF APPROPRIATIONS FOR DEEP SEABED HARD MINERAL RESOURCES ACT.

Section 310 of the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1470) is amended—

(1) by striking out "and" immediately after "1983,"; and

(2) by inserting ", and $1,500,000 for each of the fiscal years ending September 30, 1985, and September 30, 1986" immediately before the period at the end thereof.

SEC. 404. MAGNUSON FISHERY CONSERVATION AND MANAGEMENT ACT AMENDMENTS.

The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) is amended as follows:

16 USC 1821.

(1) Section 201(d)(4) is amended by striking out "shall" the first time it appears and inserting in lieu thereof "may".

(2) Section 201(e)(1) is amended—

(A) by striking out "shall determine the allocation among foreign nations of" in subparagraph (A) and inserting in lieu thereof "may make allocations to foreign nations from";

(B) by amending subparagraph (E)(i)—

(i) by inserting "both" immediately before "United States",

(ii) by striking out "or fishery" and inserting in lieu thereof "and fishery", and

(iii) by inserting the following immediately before the semicolon at the end thereof: ", particularly fish and fishery products for which the foreign nation has requested an allocation"; and

(C) by amending subparagraph (E)(ii) to read as follows:

"(ii) whether, and to what extent, such nation is cooperating with the United States in both the advancement of existing and new opportunities for fisheries exports from the United States through the purchase of fishery products from United States processors, and the advancement of fisheries trade through the purchase of fish and fishery products from United States fishermen, particularly fish and fishery products for which the foreign nation has requested an allocation;".

16 USC 1851.

(3) Section 301(a)(1) is amended by inserting "for the United States fishing industry" immediately before the period at the end thereof.

16 USC 1856.

(4) Section 306(a) is amended to read as follows:

"(a) In General.—

"(1) Except as provided in subsection (b), nothing in this Act shall be construed as extending or diminishing the jurisdiction or authority of any State within its boundaries.

"(2) For the purposes of this Act, except as provided in subsection (b), the jurisdiction and authority of a State shall extend—

Water.

"(A) to any pocket of waters that is adjacent to the State and totally enclosed by lines delimiting the territorial sea of the United States pursuant to the Geneva Convention on the Territorial Sea and Contiguous Zone or any successor convention to which the United States is a party;

"(B) with respect to the body of water commonly known as Nantucket Sound, to the pocket of water west of the seventieth meridian west of Greenwich; and

"(C) to the waters of southeastern Alaska (for the purpose of regulating fishing for other than any species of crab) that are—

Alaska.

"(i) north of the line representing the international boundary at Dixon Entrance and the westward extension of that line; east of 138 degrees west longitude; and not more than three nautical miles seaward from the coast, from the lines extending from headland to headland across all bays, inlets, straits, passes, sounds, and entrances, and from any island or group of islands, including the islands of the Alexander Archipelago (except Forrester Island); or

"(ii) between the islands referred to in clause (i) (except Forrester Island) and the mainland.

"(3) Except as otherwise provided by paragraph (2), a State may not directly or indirectly regulate any fishing vessel outside its boundaries, unless the vessel is registered under the law of that State.".

Vessels.

SEC. 405. EXPORT AUTHORITY REGARDING FISH.

(a) Commodity Credit Corporation.—Section 5(f) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c(f)) is amended by inserting "(including fish and fish products, without regard to whether such fish are harvested in aquacultural operations)" after "agricultural commodities".

(b) Agricultural Trade Development.—Section 402 of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1732) is amended—

(1) by inserting "(including fish, without regard to whether such fish are harvested in aquacultural operations)" after "United States" the first place it appears; and

(2) by striking out the third sentence.

(c) Food for Peace.—Section 4(c) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(c)) is amended by inserting "(including fish, without regard to whether such fish are harvested in aquacultural operations)" after "agricultural commodity" the second place it appears.

(d) Effective Date.—For purposes of section 135 of the Omnibus Budget Reconciliation Act of 1982 (7 U.S.C. 612c note), the amendments made by this section shall be considered to have taken effect before the date of the enactment of that Act.

7 USC 1707a note.

SEC. 406. RELINQUISHMENT OF LEGISLATIVE JURISDICTION OVER CERTAIN LANDS.

15 USC 1529.

Notwithstanding any other law, the Secretary of Commerce, whenever the Secretary considers it desirable, may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, all or part of the legislative jurisdiction of the United States over lands or interests under the Secretary's control in that State, Commonwealth, territory, or possession. Relinquishment of legislative jurisdiction under this section may be accomplished—

State and local governments.

(1) by filing with the Governor (or, if none exists, with the chief executive officer) of the State, Commonwealth, territory, or possession concerned a notice of relinquishment to take effect upon acceptance of the notice; or

(2) as required by the laws of the State, Commonwealth, territory, or possession.

TITLE V—NATIONAL SEA GRANT COLLEGE PROGRAM

AUTHORIZATION

SEC. 501. (a) Section 212 of the National Sea Grant Program Act (33 U.S.C. 1131) is amended by inserting immediately after paragraph (3) the following new paragraph:

"(4) Not to exceed $39,000,000 for fiscal year 1985, not to exceed $42,000,000 for fiscal year 1986, and not to exceed $44,000,000 for fiscal year 1987.".

(b) Section 3(c) of the Sea Grant Program Improvement Act of 1976 (33 U.S.C. 1124a(c)) is amended by inserting immediately after paragraph (3) the following new paragraph:

"(4) For fiscal years 1985, 1986, and 1987, not to exceed $1,000,000, appropriated in each fiscal year pursuant to section 212 of the National Sea Grant Program Act, may be available to carry out this section.".

TITLE VI—OCEAN THERMAL ENERGY CONVERSION ACT

AUTHORIZATION

42 USC 9166.

SEC. 601. Section 406 of the Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) is amended by—

(1) striking out the word "and" after "1982,"; and

(2) striking out "1983." and inserting in lieu thereof "1983, not to exceed $480,000 for each of the fiscal years ending September 30, 1984 and September 30, 1985, and not to exceed $630,000 for each of the fiscal years ending September 30, 1986 and September 30, 1987.".

MISCELLANEOUS

SEC. 602. (a) The Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) is amended—

42 USC 9101.

(1) in section 2(a)(1) by striking out "located in the territorial sea" and inserting in lieu thereof "located in whole or in part between the highwater mark and the seaward boundary of the territorial sea";

42 USC 9102.

(2) in section 3(11) by striking out "standing or moored in or beyond the territorial sea of the United States" and inserting in lieu thereof "standing, fixed or moored in whole or in part seaward of the highwater mark";

42 USC 9111.

(3) in the first sentence of section 101(a) by striking out "located in the territorial sea" and inserting in lieu thereof "located in whole or in part between the highwater mark and the seaward boundary of the territorial sea";

(4) in section 101(b)(2) by striking out "located in the territorial sea" and inserting in lieu thereof "located in whole or in part between the highwater mark and the seaward boundary of the territorial sea";

(5) in section 101(c)(7) by striking out "will not be documented under the laws of the United States;" and inserting in lieu thereof "will be documented under the laws of a foreign nation;";

42 USC 9118.

(6) in section 108(e)(2)(C)(ii) by striking out "moored or standing" and inserting in lieu thereof "moored, fixed or standing";

42 USC 9118.

(7) in section 108(e) by adding a new paragraph (4) to read as follows:

"(4) For the purposes of this subsection the term 'ocean thermal energy conversion facility' refers only to an ocean thermal energy conversion facility which has major components other than water intake or discharge pipes located seaward of the highwater mark";

42 USC 9120.

(8) in section 110(1) by striking out "aboard" and inserting in lieu thereof "in or aboard";

42 USC 9151.

(9) in section 301 by striking out "on board" and inserting in lieu thereof "in or on board", by striking out "or other" and inserting in lieu thereof "or on board any", and by striking out in paragraph (2) thereof "to board" and inserting in lieu thereof "to enter or board";

42 USC 9153.

(10) in section 303(b) by striking out "on board" and inserting in lieu thereof "in or on board", by striking out "or other" in the chapeau and inserting in lieu thereof "or any", and by striking out in paragraph (1) thereof "board and inspect" and inserting in lieu thereof "enter or board, and inspect, any ocean thermal energy conversion facility or plantship or";

42 USC 9163.

(11) in the first sentence of section 403(a)(1) by inserting "and all of which is located seaward of the highwater mark," immediately after "licensed under this Act"; and

(12) in the first sentence of the section 403(c)(2) by inserting "documented under the laws of the United States and" immediately after "ocean thermal energy conversion facility or plantship".

(b) Such Act is further amended—

42 USC 9111.

(1) in section 101(c)(1) by striking out "cannot and will not" and inserting in lieu thereof "cannot or will not";

(2) in section 101(c)(5) by striking out "has expired;" and inserting in lieu thereof "has not expired;";

(3) in section 101(c)(10) by striking out "each" and inserting in lieu thereof "any";

(4) in section 101(c)(13) by striking out "and" after the semicolon and inserting in lieu thereof "or"; and

(5) in section 101(c)(10) by striking out "(33 U.S.C. 1451 et seq.)" and inserting in lieu thereof "(16 U.S.C 1451 et seq.)".

42 USC 9165.

(c) Section 405 of such Act is amended by striking out "of the first 3 fiscal years" and inserting in lieu thereof "fiscal year".

(d) Such Act is further amended by adding the following new section:

Report.
Exports.
42 USC 9168.

"Sec. 408. Within 18 months after the date of enactment of this provision, the Administrator shall submit to the President of the Senate and the Speaker of the House of Representatives a report detailing what steps the United States Government is taking and plans to take to promote and enhance the export potential of ocean thermal energy conversion components, facilities, and plantships manufactured by United States industry. Such report shall include—

"(1) the relevant views of the National Oceanic and Atmospheric Administration, International Trade Administration, Maritime Administration, Department of Energy, Small Business Administration, United States International Development Cooperative Agency, the Office of the Special Trade Representative, and other relevant United States Government agencies;

"(2) the findings of studies conducted by the Administrator to fulfill the intent of this section;

"(3) a summary of activities, including consultations held with representatives of both the ocean thermal energy conversion and financial industries conducted by the Administrator to fulfill the intent of this section; and

Exports.

42 USC 9101 note.

"(4) such recommendations as the Administrator deems appropriate for amending the Ocean Thermal Energy Conversion Act of 1980 (Public Law 96-320) or other relevant Acts to better promote and enhance the export potential of ocean thermal energy conversion components, facilities and plantships manufactured by United States industry.".

(e) Such Act is further amended—

42 USC 9118.

(1) in the first sentence of section 108(d)(1) by striking out "reorganizational safety" and inserting in lieu thereof "navigational safety";

42 USC 9119.

(2) in section 109(b)(2) by striking out "natural" and inserting in lieu thereof "national";

42 USC 9122.

(3) in section 112(b) by striking out "confidential commercial and financial information)" and inserting in lieu thereof "commercial or financial information which is privileged or confidential)";

42 USC 9126.

(4) in section 116(a) by striking out "facility or platform" and inserting in lieu thereof "facility or plantship";

42 USC 9152.

(5) in section 302(b)(1) by inserting "to halt" immediately after "injunction,";

42 USC 9163.

(6) in the first sentence of section 403(c)(2) by striking out "Treasury" and inserting in lieu thereof "Treasury, including the provisions of the Tariff Act of 1930, as amended (19 U.S.C. 1202), and other laws codified in title 19, United States Code,";

Water.
42 USC 9102.

(7) in section 3(11) by striking out "freshwater," and inserting in lieu thereof "fresh water,";

42 USC 9111.

(8) in section 101(c)(4) by striking out "enforcement" and inserting in lieu thereof "regulatory";

(9) in section 101(c)(6) by striking out "for license" and inserting in lieu thereof "for a license";

(10) in section 101(c)(14) by striking out "when" and inserting in lieu thereof "if";

(11) in section 101(d)(2) by striking out "licensee" and inserting in lieu thereof "applicant, licensee";

42 USC 9115.

(12) in the first sentence of section 105(a)(2) by striking out "that (A)" and inserting in lieu thereof "(A) that";

(13) in the first sentence of section 105(b)(1) by striking out "of adjacent" and inserting in lieu thereof "of an adjacent";

(14) in the third sentence of section 105(b)(1) by striking out "is" and inserting in lieu thereof "are";

(15) by inserting the text of section 109(b)(3) as a new paragraph (3) immediately after the end of paragraph (2) of section 108(d), and by repealing section 109(b)(3);

(16) in section 109(c) by striking out "such of" and inserting in lieu thereof "of such", and by striking out "impingment" and inserting in lieu thereof "impingement";

42 USC 9121.

(17) in section 111(b) by striking out "environment established by any treaty or convention," and inserting in lieu thereof "environment"; and

(18) in section 112(b)(2)(B) by striking out "administrator" and inserting in lieu thereof "Administrator".

42 USC 9112.

(f) Section 102(h) of such Act is amended to read as follows:

"(h) The Administrator shall not take final action on any application unless the applicant has paid to the Administrator a reasonable administrative fee, which shall be deposited into miscellaneous receipts of the Treasury. The amount of the fee imposed by the Administrator on any applicant shall reflect the reasonable administrative costs incurred by the National Oceanic and Atmospheric Administration in reviewing and processing the application.".

TITLE VII—EXPOSURE SUITS

SEC. 701. (a)(1) Chapter 31 of title 46, United States Code, is amended by adding at the end thereof the following:

"§ 3102. Exposure suits

46 USC 3102. Regulations. Vessels. Health.

"(a) The Secretary shall by regulation require exposure suits on vessels designated by the Secretary that operate in the Atlantic Ocean north of 32 degrees North latitude or south of 32 degrees South latitude and in all other waters north of 35 degrees North latitude or south of 35 degrees South latitude. The Secretary may not exclude a vessel from designation under this section only because that vessel carries other lifesaving equipment.

"(b) The Secretary shall establish standards for an exposure suit required by this section, including standards to guarantee adequate thermal protection, buoyance, and flotation stability.

"(c)(1) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section is liable to the United States Government for a civil penalty of not more than $5,000. The vessel also is liable in rem for the penalty.

"(2) The owner, charterer, managing operator, agent, master, or individual in charge of a vessel violating this section or a regulation prescribed under this section may be fined not more than $25,000, imprisoned for not more than 5 years, or both.".

(2) The analysis of chapter 31 of title 46, United States Code, is amended by inserting immediately after the item relating to section 3101 the following:

"3102. Exposure suits.".

46 USC 3102 note.

(b) Section 3102 of title 46, United States Code (as added by subsection (a) of this section), does not limit the authority of the Secretary of the department in which the Coast Guard is operating to prescribe regulations requiring exposure suits on vessels not required by section 3102 to have exposure suits.

Effective date. 46 USC 3102 note.

(c) The regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section), shall be effective not later than 60 days after the date of enactment of this title.

Report.

(d) Not later than six months after the date of enactment of this title, the Secretary of the department in which the Coast Guard is operating shall submit a report to the Congress evaluating the benefits and disadvantages of extending the regulations prescribed under section 3102 of title 46, United States Code (as added by subsection (a) of this section) to require exposure suits on designated vessels operating in all waters north of 31 degrees North latitude or south of 31 degrees South latitude.

Approved November 8, 1984.

LEGISLATIVE HISTORY—H.R. 6342:

CONGRESSIONAL RECORD, Vol. 130 (1984):
Oct. 4, considered and passed House.
Oct. 10, considered and passed Senate.

Public Law 99-62
99th Congress

An Act

July 11, 1985
[H.R. 2800]

To provide authorization of appropriations for activities under the Land Remote-Sensing Commercialization Act of 1984.

98 Stat. 466.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 609 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4278) is amended by striking "$75,000,000 for fiscal year 1985" and inserting in lieu thereof "$295,000,000 for fiscal years 1985 through 1989, of which not more than $125,000,000 shall be available for fiscal years 1985 and 1986,".

Approved July 11, 1985.

LEGISLATIVE HISTORY—H.R. 2800 (S. 1279):

HOUSE REPORT No. 99-177 (Comm. on Science and Technology).
SENATE REPORT No. 99-86 accompanying S. 1279 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 131 (1985):
June 24, considered and passed House.
June 26, considered and passed Senate, amended, in lieu of S. 1279.
June 27, Senate receded from its amendment and concurred in House bill.

Public Law 99-73
99th Congress

An Act

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1986, and for other purposes.

July 29, 1985
[H.R. 1617]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1986".

National Bureau of Standards Authorization Act for Fiscal Year 1986.

AUTHORIZATIONS FOR PROGRAM ACTIVITIES

SEC. 2. (a) There are authorized to be appropriated to the Secretary of Commerce (hereinafter referred to as the "Secretary") for fiscal year 1986, to carry out activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, $36,843,000.
(2) Materials Science and Engineering, $21,943,000.
(3) Engineering Measurements and Standards, $33,555,000.
(4) Computer Science and Technology, $9,657,000.
(5) Center for Fire Research, $5,827,000.
(6) Technical Competence Fund, $8,481,000.
(7) Central Technical Support, $8,179,000.

(b) Notwithstanding any other provision of this or any other Act for fiscal year 1986—

(1) of the total of the amounts authorized under paragraphs (1), (2), (3), and (6) of subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the total amount authorized under paragraph (3) of subsection (a), $3,895,000 is authorized only for the Center for Building Technology, and $50,000 is authorized only for the purpose of assisting the creation and maintenance of data bases on structural failures; and

(3) of the total of the amounts authorized under paragraphs (1), (2), (7), and (8) of subsection (a), $2,575,000 is authorized for transfer to the Working Capital Fund.

(c)(1) Funds may be transferred among the line items listed in subsection (a) so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for that line item in subsection (a); but a full and complete explanation of any such proposed transfer and the reason therefor must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and the proposed transfer may be made only when 30 calendar days have passed after the transmission of such written explanation.

Prohibitions.

(3) No transfer described in paragraph (1) or (2) may have the effect of reducing the amount available for any of the particular

purposes set forth in subsection (b) below the applicable dollar amount specified in that subsection; and none of the funds transferred under either such paragraph may be used for the construction of the Cold Neutron Source Facility.

Research and development.

(d) The National Bureau of Standards shall seek reimbursements of not less than $500,000 from other Federal agencies to expand its efforts in support of basic scientific research on the atmospheric, climatic, and environmental consequences of nuclear explosions and nuclear exchanges.

AUTHORIZATION FOR EXPENSES OUTSIDE THE UNITED STATES

SEC. 3. In addition to the sums authorized in section 2, there are authorized to be appropriated to the Secretary for fiscal year 1986 such sums as may be necessary for expenses of the National Bureau of Standards incurred outside the United States, to be paid for in foreign currencies that the Secretary of the Treasury determines to be excess to the normal requirements of the United States.

AUTHORIZATION FOR SALARY ADJUSTMENTS

SEC. 4. In addition to the sums authorized in the preceding provisions of this Act, there are authorized to be appropriated to the Secretary for fiscal year 1986 such additional sums as may be necessary to restore the salary, pay, retirement, and other employee benefits of the National Bureau of Standards to the levels in effect at the end of fiscal year 1985 and to make any adjustments in the Bureau's salary, pay, retirement, and other employee benefits which may be provided for by law.

COST RECOVERY AUTHORITY

SEC. 5. (a) Section 12(f) of the Act of March 3, 1901 (15 U.S.C. 278b(f)), is amended—

(1) by striking out "first"; and

(2) by inserting immediately before the period at the end thereof the following: ", and to ensure the availability of working capital necessary to replace equipment and inventories".

15 USC 275c.

(b) Fees for calibration services, standard reference materials, and other comparable services provided by the National Bureau of Standards shall be at least sufficient to meet the requirements set forth in the amendments made by subsection (a), and any funds recovered in excess of such requirements shall be returned to the Treasury of the United States.

Effective date.
15 USC 275c note.

(c) The amendments made by subsection (a) (and the provisions of subsection (b)) shall be effective October 1, 1984.

COMPENSATION OF DIRECTOR

SEC. 6. (a) Section 5 of the Act of March 3, 1901 (15 U.S.C. 274), is amended—

(1) by striking out "He" at the beginning of the second, third, and fourth sentences and inserting in lieu thereof "The Director"; and

(2) by adding at the end thereof the following new sentence: "The Director shall be compensated at the rate now or hereafter in effect for Level IV of the Executive Schedule under section 5315 of title 5, United States Code.".

(b)(1) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new item:

"Director, National Bureau of Standards, Department of Commerce.".

(2) Section 5316 of title 5, United States Code, is amended by striking out "Director, National Bureau of Standards, Department of Commerce.".

(c) The amendments made by this section shall be effective October 1, 1985.

Effective date.
5 USC 5315 note.

STRUCTURAL FAILURES

15 USC 281a.

SEC. 7. The National Bureau of Standards, on its own initiative but only after consultation with local authorities, may initiate and conduct investigations to determine the causes of structural failures in structures which are used or occupied by the general public. No part of any report resulting from such investigation shall be admitted as evidence or used in any suit or action for damages arising out of any matter mentioned in such report.

SCIENTIFIC POSITIONS

SEC. 8. In order to maintain a highly qualified scientific staff at the National Bureau of Standards, a goal of 20 positions is established for the Senior Scientists Program at the National Bureau of Standards.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

SEC. 9. In addition to the sums authorized in the preceding provisions of this Act, there is authorized to be appropriated to the Secretary for fiscal year 1986 the sum of $2,715,000 for the activities of the Office of Productivity, Technology, and Innovation.

NATIONAL TECHNICAL INFORMATION SERVICE

SEC. 10. In addition to the sums authorized in the preceding provisions of this Act, there is authorized to be appropriated to the Secretary for fiscal year 1986 the sum of $537,000 for the patent licensing activities of the National Technical Information Service.

AVAILABILITY OF APPROPRIATIONS

SEC. 11. Appropriations made under authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for such periods as may be specified in the Acts making such appropriations.

COST REDUCTION REPORT

SEC. 12. Within 90 days after the enactment of this Act, the Director of the National Bureau of Standards shall review the recommendations of the President's Private Sector Survey on Cost Control and such other recommendations as may be included in the Office of Management and Budget report entitled "Management of the United States Government—1986", and shall submit a report to

the Speaker of the House of Representatives, the President of the Senate, and the appropriate committees of the House and Senate on the implementation status of each such recommendation which affects the National Bureau of Standards and which is within the authority and control of the Director.

Approved July 29, 1985.

LEGISLATIVE HISTORY—H.R. 1617 (S. 796):

HOUSE REPORTS: No. 99-43 (Comm. on Science and Technology) and No. 99-187 (Comm. of Conference).

SENATE REPORT No. 99-31 accompanying S. 796 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 131 (1985):
Apr. 18, considered and passed House.
Apr. 23, considered and passed Senate, amended, in lieu of S. 796.
July 15, House and Senate agreed to conference report.

Public Law 99-97
99th Congress

An Act

To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

Sept. 26, 1985
[S. 818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end thereof the following: 98 Stat. 95.

"(f) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, to carry out the purposes of this Act, there is authorized to be appropriated $22,037,000 for the fiscal year ending September 30, 1986.". 15 USC 2210.

Approved September 26, 1985.

LEGISLATIVE HISTORY—S. 818:

HOUSE REPORT No. 99-135 (Comm. on Science and Technology).
SENATE REPORT No. 99-30 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 131 (1985):
Apr. 17, considered and passed Senate.
June 24, considered and passed House, amended.
July 31, Senate concurred in House amendment with amendment.
Sept. 17, House concurred in Senate amendment.

Public Law 99-105
99th Congress

An Act

To authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1986 and 1987, and for other purposes.

Sept. 30, 1985
[S. 817]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end thereof the following: 98 Stat. 95.

"(6) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, for the fiscal year ending September 30, 1986, $5,596,000, and for the fiscal year ending September 30, 1987, $5,848,000.". 42 USC 7704, 7705.

Sec. 2. Section 7(b) of such Act (42 U.S.C. 7706(b)) is amended by striking ", and" immediately after "1984" and inserting in lieu thereof a semicolon, and by inserting "$35,578,000 for the fiscal year ending September 30, 1986; and $37,179,000 for the fiscal year ending September 30, 1987" immediately before the period at the end thereof. 98 Stat. 95.

Sec. 3. Section 7(c) of such Act (42 U.S.C. 7706(c)) is amended by striking "and" after "1984;" and by inserting "$27,760,000 for the fiscal year ending September 30, 1986; and $29,009,000 for the fiscal year ending September 30, 1987" immediately before the period at the end thereof. 98 Stat. 95.

Sec. 4. Section 7(d) of such Act (42 U.S.C. 7706(d)) is amended by striking "and" after "1984;" and by inserting "$499,000 for the fiscal year ending September 30, 1986; and $521,000 for the fiscal year ending September 30, 1987" immediately before the period at the end thereof. 98 Stat. 95.

Sec. 5. Section 5(b)(2)(E) of such Act (42 U.S.C. 7704(b)(2)(E)) is amended to read as follows:

> "(E) compile and maintain a written plan for the program specified in subsections (a), (e), (f), and (g), to be submitted to the Congress and updated at such times as may be required by significant program events, but in no event less frequently than every three years;".

Sec. 6. Section 5(b)(2) of such Act (42 U.S.C. 7704(b)(2)) (as amended by section 5 of this Act) is further amended by redesignating subparagraph (F) as subparagraph (G), and by inserting after subparagraph (E) the following new subparagraph:

"(F) make, in cooperation with the United States Geological Survey, the National Science Foundation, and the National Bureau of Standards, an annual presentation to the appropriate committee of the Congress within sixty days after the end of each fiscal year for the purpose of communicating any events and any programmatic requirements deemed significant by the National Earthquake Hazards Reduction Program; and".

Ante, p. 171.

SEC. 7. Section 2(b)(3) of the National Bureau of Standards Authorization Act for Fiscal Year 1986 (Public Law 99-73) is amended by striking "(7), and (8)" and inserting in lieu thereof "and (7)".

Approved September 30, 1985.

LEGISLATIVE HISTORY—S. 817:

HOUSE REPORTS: No. 99-90, Pt. 1 (Comm. on Interior and Insular Affairs), Pt. 2 (Comm. on Science and Technology).
SENATE REPORT No. 99-29 (Comm. on Commerce, Science and Transportation).
CONGRESSIONAL RECORD, Vol. 131 (1985):
 Apr. 17, considered and passed Senate.
 June 24, considered and passed House, amended.
 July 31, Senate concurred in House amendments with amendment.
 Sept. 17, House concurred in Senate amendments.

Public Law 99-159
99th Congress

An Act

To authorize appropriations to the National Science Foundation for the fiscal year 1986, and for other purposes.

Nov. 22, 1985
[H.R. 1210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science, Engineering, and Mathematics Authorization Act of 1986".

National Science, Engineering, and Mathematics Authorization Act of 1986.
20 USC 3901 note.

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

SHORT TITLE

National Science Foundation Authorization Act for Fiscal Year 1986.
42 USC 1861 note.

Sec. 101. This title may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1986".

AUTHORIZATION OF APPROPRIATIONS

Sec. 102. (a) There are authorized to be appropriated to the National Science Foundation, for the fiscal year 1986, the sums set forth in the following categories:

(1) Advanced Scientific Computing, $46,230,000.

(2) Astronomical, Atmospheric, Earth, and Ocean Sciences, $359,670,000.

(3) Biological, Behavioral, and Social Sciences, $262,010,000.

(4) Engineering, $169,796,000.

(5) Mathematical and Physical Sciences, $408,820,000.

(6) Scientific, Technological, and International Affairs, $37,770,000.

(7) Program Development and Management, $72,230,000.

(8) Science and Engineering Education, $50,550,000.

(9) United States Antarctic Program, $110,080,000.

(b)(1) Notwithstanding any other provision of this Act, from the amounts authorized under subsection (a)—

(A) not less than $1,000,000 are authorized only for the purposes of the ethics and values in science and technology program; and

(B) not less than $3,000,000 are authorized only for purposes of the Policy Research and Analysis program.

The Foundation shall report to the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate on the distribution of the funds made available under subparagraph (A) of this paragraph not later than December 30, 1986.

Acid rain.

(c) In the obligation, use, and expenditure of the amounts appropriated for Biotic Systems and Resources under the authority provided in subsection (a)(3) and for Atmospheric Sciences under the authority provided in subsection (a)(2), emphasis shall be placed on basic scientific research to support a better understanding of the phenomena that contribute to acid rain.

SCIENTIFIC REVIEW PRIOR TO CLOSURE OF A NATIONAL FACILITY

Prohibition.
Ante, p. 887.

SEC. 103. Of the funds authorized to be appropriated in section 102, no funds shall be expended with respect to closure of a National facility without appropriate scientific review, including review by the National Science Foundation's appropriate advisory committee or committees and the National Science Board.

AVAILABILITY

Ante, p. 887;
Infra.

SEC. 104. Appropriations made under authority provided in sections 102 and 106 shall remain available for obligation for periods specified in the Acts making the appropriations.

OFFICIAL EXPENSES

Prohibition.

SEC. 105. From appropriations made under authorizations provided in this Act, not more than $3,500 for fiscal year 1986 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. The determination of the Director shall be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY AUTHORIZATION

Prohibition.
Ante, p. 887.

SEC. 106. In addition to the sums authorized by section 102, not more than $1,000,000 for fiscal year 1986 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Treasury Department determines to be excess to the normal requirements of the United States.

TRANSFERS AUTHORIZED

Ante, p. 887.

SEC. 107. (a) Funds may be transferred among the categories listed in section 102(a), so long as the net funds transferred to or from any category do not exceed 10 percent of the amount authorized for that category in section 102.

(b) The Director of the Foundation may propose transfers to or from any category exceeding 10 percent of the amounts authorized for that category in section 102. An explanation of any such proposed transfer must be transmitted in writing to the Speaker of the House, the President of the Senate, the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives. The proposed transfer may be made only when thirty calendar days have passed after submission of the written proposal.

DATA COLLECTION AND ANALYSIS

42 USC 1886.

SEC. 108. The National Science Foundation is authorized to design, establish, and maintain a data collection and analysis capability in the Foundation for the purpose of identifying and assessing the research facilities needs of universities. The needs of universities, by major field of science and engineering, for construction and modernization of research laboratories, including fixed equipment and major research equipment, shall be documented. University expenditures for the construction and modernization of research facilities, the sources of funds, and other appropriate data shall be collected and analyzed. The Foundation, in conjunction with other appropriate Federal agencies, shall conduct the necessary surveys every 2 years and report the results to the Congress. The first report shall be submitted to the Congress by September 1, 1986.

Report.

NATIONAL SCIENCE FOUNDATION ADMINISTRATIVE AMENDMENTS

SEC. 109. (a) The last sentence of section 4(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1863(e)) is amended by striking out "by registered mail or certified mail mailed to his last known address of record".

(b) Section 5(e) of the National Science Foundation Act of 1950 (42 U.S.C. 1864(e)) is amended to read as follows:

Grants.
Contracts.
42 USC 1870.

"(e)(1) The Director may make grants, contracts, and other arrangements pursuant to section 11(c) only with the prior approval of the Board or under authority delegated by the Board, and subject to such conditions as the Board may specify.

Federal Register, publication.

"(2) Any delegation of authority or imposition of conditions under the preceding sentence shall be effective only for such period of time, not exceeding two years, as the Board may specify, and shall be promptly published in the Federal Register and reported to the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate and the Committee on Science and Technology of the House of Representatives. On October 1 of each odd-numbered year the Board shall submit to the Congress a concise report which explains and justifies any actions taken by the Board under this subsection to delegate its authority or impose conditions within the preceding two years. The provisions of this subsection shall cease to be effective at the end of fiscal year 1989.".

Report.

Termination.

(c) Section 12 of such Act (42 U.S.C. 1871) is amended—

(1) by striking out "(a)" after "SEC. 12."; and

(2) by striking out subsection (b).

(d) Section 9 of the National Science Foundation Act of 1950 (42 U.S.C. 1868) is amended to read as follows:

"SPECIAL COMMISSIONS

42 USC 1863.

"SEC. 9. (a) Each special commission established under section 4(h) shall be appointed by the Board and shall consist of such members as the Board considers appropriate.

Study.
Research and development.
Education.

"(b) Special commissions may be established to study and make recommendations to the Foundation on issues relating to research and education in science and engineering.".

(e)(1) Section 14 of such Act (42 U.S.C. 1873) is amended—

(A) by striking out subsection (b);

(B) by redesignating subsections (c) through (i) as subsections (b) through (h), respectively; and

(C) by adding at the end thereof the following new subsection:

42 USC 1862.

"(i) Information supplied to the Foundation or a contractor of the Foundation by an industrial or commercial organization in survey forms, questionnaires, or similar instruments for the purposes of subsection (a)(5) or (a)(6) of section 3 may not be disclosed to the public unless such information has been transformed into statistical or aggregate formats that do not allow the identification of the supplier. The names of organizations supplying such information may not be disclosed to the public.".

(2) Sections 3(b) and 15(b)(1) of such Act (42 U.S.C. 1862(b), 1874(b)(1)) are each amended by striking out "14(g)" and inserting in lieu thereof "14(f)".

42 USC 1873a.

(f) Section 10 of the National Science Foundation Authorization Act, Fiscal Year 1978 (42 U.S.C. 1873(a)), is repealed.

(g) Section 6(a) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1881a(a)) is amended—

(1) by striking out "not to exceed $50,000 per year for a period not to exceed three years" in the last sentence; and

Grants.

(2) by adding at the end thereof the following new sentence: "The National Science Board will periodically establish the amounts and terms of such grants under this section.".

Repeal.

42 USC 1862, 1863, 1869b, 1873, 1882 note.

(h) Section 6 of the National Science Foundation Authorization Act, Fiscal Year 1978 (42 U.S.C. 1884), is repealed; and sections 7, 8, 9, 11, 12, 13, and 14 of such Act are redesignated as sections 6 through 12, respectively.

(i) Section 9 of the National Science Foundation Authorization Act for Fiscal Year 1980 (42 U.S.C. 1882) is amended by inserting "and the National Science Board" after "the Director of the National Science Foundation".

AMENDMENT TO THE NATIONAL SCIENCE FOUNDATION ACT OF 1950 RELATING TO ENGINEERING

Research and development.
Education.
Study.

SEC. 110. (a) The National Science Foundation Act of 1950 (42 U.S.C. 1861 through 1875) is amended as follows:

(1) Section 3(a)(1) (42 U.S.C. 1862(a)(1)) is amended—

(A) by striking out "engineering,";

(B) by inserting after "other sciences," the following: "and to initiate and support research fundamental to the engineering process and programs to strengthen engineering research potential and engineering education programs at all levels in the various fields of engineering,"; and

(C) by striking out "such scientific and educational activities" and inserting in lieu thereof "such scientific, engineering, and educational activities".

(2) Section 3(a)(2) (42 U.S.C. 1862(a)(2)) is amended by striking out "in the mathematical, physical, medical, biological, engineering, social, and other sciences" and inserting in lieu thereof "for study and research in the sciences or in engineering".

(3) Section 3(a)(3) (42 U.S.C. 1862(a)(3)) is amended—

(A) by inserting "and engineering" after "scientific"; and

(B) by inserting "and engineers" after "scientists".

(4) Section 3(a)(4) (42 U.S.C. 1862(a)(4)) is amended—

(A) by inserting "and engineering" after "scientific"; and

(B) by inserting "and engineering" after "sciences".

(5) Section 3(a)(5) (42 U.S.C. 1862(a)(5)) is amended by inserting "and fields of engineering" after "sciences".

(6) Section 3(a)(6) (42 U.S.C. 1862(a)(6)) is amended by striking out "technical" each place it appears and inserting in lieu thereof "engineering".

(7) Section 3(a)(7) (42 U.S.C. 1862(a)(7)) is amended by inserting "and engineering" after "scientific".

(8) Section 3(b) (42 U.S.C. 1862(b)) is amended by inserting "and engineering" after "scientific" each place it appears.

(9) Section 3(c) (42 U.S.C. 1862(c)) is amended—

(A) by inserting "and engineering" after "scientific" in the first sentence; and

(B) by inserting "and engineering research" after "applied scientific research" in the second sentence.

(10) Section 3(d) (42 U.S.C. 1862(d)) is amended by striking out "basic research and education in the sciences" and inserting in lieu thereof "research and education in science and engineering".

(11) Section 3(e) (42 U.S.C. 1862(e)) is amended by inserting "and engineering" after "sciences".

(12) Section 4(c) (42 U.S.C. 1863(c)) is amended—

(A) by inserting "and engineering" after "scientific" in clause (3) of the first sentence;

(B) by inserting "and engineers" after "scientists" in the second sentence; and

(C) by inserting "the National Academy of Engineering," after "National Academy of Sciences,", and inserting ", engineering," after "scientific", in the third sentence.

(13) The first sentence of section 10 (42 U.S.C. 1869) is amended by striking out "scientific study or scientific work in the mathematical, physical, medical, biological, engineering, social, and other sciences" and inserting in lieu thereof "study and research in the sciences or in engineering".

(14) Section 11 (42 U.S.C. 1870) is amended—

(A) by inserting "or engineering" after "scientific" each place it appears in subsections (c), (d), and (i);

(B) by striking out "technical" and inserting in lieu thereof "engineering" in subsection (g); and

(C) by striking out "scientific value" and inserting in lieu thereof "scientific or engineering value" in subsection (g).

(15) Section 12 (42 U.S.C. 1871), as amended by section 109(c) of this Act, is further amended by inserting "or engineering" after "scientific".

(16) Section 13(a) (42 U.S.C. 1872(a)) is amended—

(A) by inserting "or engineering" after "scientific" each place it appears in the first two sentences;

(B) by inserting "or engineers" after "scientists"; and

(C) by striking out "scientific study or scientific work" and inserting in lieu thereof "study and research in the sciences or in engineering".

(17) Section 13(b) (42 U.S.C. 1872(b)) is amended by inserting "or engineering" after "scientific".

(18) Section 14 (42 U.S.C. 1873), as amended by section 109(e) of this Act, is further amended—

(A) by inserting "or engineering" after "scientific" each place it appears in subsection (e); and

(B) by striking out "technical" in subsection (f) and inserting in lieu thereof "engineering".

(19) Section 15(b) (42 U.S.C. 1874(b)) is amended—

(A) by striking out "technical" in paragraph (1) and inserting in lieu thereof "engineering"; and

(B) by inserting "or engineering" after "scientific" in paragraph (2).

(b) Section 2(b) of the National Science Foundation Authorization Act, 1976 (42 U.S.C. 1869a) is amended by inserting "or engineering" after "science" each place it appears.

AMENDMENT TO SCIENCE AND TECHNOLOGY EQUAL OPPORTUNITY ACT RELATING TO ENGINEERING

SEC. 111. (a) The first section of the National Science Foundation Authorization and Science and Technology Equal Opportunities Act (42 U.S.C. 1861, note) is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(b) Part B of the National Science Foundation Authorization and Science and Technology Equal Opportunities Act (42 U.S.C. 1885 to 1885(d)) is amended as follows:

42 USC 1861 note.

(1) Section 31 (42 U.S.C. 1885) is amended by striking out "Technology" and inserting in lieu thereof "Engineering".

(2) Section 32(a) (42 U.S.C. 1885(a)) is amended—

(A) by striking out "technology" and inserting in lieu thereof "engineering"; and

(B) by striking out "scientific talent and technical skills" and inserting in lieu thereof "scientific and engineering talents and skills".

(3) The first sentence of section 32(b) (42 U.S.C. 1885(b)) is amended—

(A) by striking out "skills in science and mathematics" and inserting in lieu thereof "skills in science, engineering, and mathematics";

(B) by striking out "technical" and inserting in lieu thereof "engineering";

(C) by striking out "scientific literacy" and inserting in lieu thereof "scientific and engineering literacy"; and

(D) by striking out "technology" and inserting in lieu thereof "engineering".

(4) The second sentence of section 32(b) (42 U.S.C. 1885(b)) is amended—

(A) by striking out "highest quality science" and inserting in lieu thereof "highest quality science and engineering"; and

(B) by striking out "technology" and inserting in lieu thereof "engineering".

(5) The third sentence of section 32(b) (42 U.S.C. 1885(b)) is amended by striking out "technology" and inserting in lieu thereof "engineering".

(6) Section 33 (42 U.S.C. 1885a) is amended—

(A) by striking out "technology" and "technical" each place they appear and inserting in lieu thereof "engineering";

(B) by inserting ", engineering," after "science" in paragraph (2);

(C) by inserting "and engineers" after "scientists" each place it appears;

(D) by inserting "and engineering" after "science" in paragraph (10); and

(E) by striking out "science, engineering, and technology" in paragraph (11) and inserting in lieu thereof "science and engineering".

(7) Section 34 (42 U.S.C. 1885b) is amended—

(A) by striking out "science education" and inserting in lieu thereof "science and engineering education"; and

(B) by striking out "technology" and inserting in lieu thereof "engineering".

(8) Section 36 (42 U.S.C. 1885c) is amended—

(A) by striking out "TECHNOLOGY" in the heading and "Technology" and "technology" each place they appear, and inserting in lieu thereof "ENGINEERING", "Engineering", and "engineering", respectively; and

(B) by striking out "scientific engineering, professional, and technical" and inserting in lieu thereof "scientific, engineering, and professional".

(9) Section 37(b) (42 U.S.C. 1885d(b)) is amended—

(A) by striking out "technical" each place it appears and inserting in lieu thereof "engineering"; and

(B) by striking out "Technology" in paragraph (3) and inserting in lieu thereof "Engineering".

(10) The heading of such part B is amended by striking out "TECHNOLOGY" and inserting in lieu thereof "ENGINEERING".

PRIVATE SECTOR SURVEY REVIEW

Report.

SEC. 112. Within 90 days after the date of the enactment of this Act the Director of the National Science Foundation shall review the recommendations of the President's Private Sector Survey on Cost Control and such other recommendations as may be included in the OMB report "Management of the United States Government—1986", and shall submit a report to the Speaker of the House of Representatives, the President of the Senate, and the appropriate Committees of the House and Senate on the implementation status of each such recommendation which affects the National Science Foundation and which is within the authority and control of the Director.

TITLE II—EDUCATION FOR ECONOMIC SECURITY REAUTHORIZATION

PART A—NATIONAL SCIENCE FOUNDATION MATHEMATICS AND SCIENCE PROGRAMS

MATHEMATICS, SCIENCE, AND ENGINEERING EDUCATION PROGRAMS

SEC. 201. Title I of the Education for Economic Security Act (Public Law 98-377) is amended to read as follows:

98 Stat. 1268.

"TITLE I—NATIONAL SCIENCE FOUNDATION SCIENCE AND ENGINEERING EDUCATION

"POLICY

20 USC 3911.

"SEC. 101. (a) The Congress declares that the science and engineering education responsibilities of the National Science Foundation are—

"(1) to improve the quality of instruction in the fields of mathematics, science, and engineering;

"(2) to support research, fellowships, teacher-faculty-business exchange programs in mathematics, science, and engineering;

Research and development.
Fellowships.
Business and industry.

"(3) to improve the quality and availability of instrumentation for mathematics, science, and engineering instruction;

Business and industry. Schools and colleges.

"(4) to encourage partnerships in education between local and State education agencies, business and industry, colleges and universities, and cultural and professional institutions and societies; and

"(5) to improve the quality of education at all levels in the fields of mathematics, science, and engineering.

Research and development.

"(b) In exercising its responsibilities to strengthen scientific and engineering research potential and science and engineering education programs at all levels, the Foundation shall avoid undue concentration of support for research and education activities.

"FUNCTIONAL OBJECTIVES; USES OF FUNDS

98 Stat. 1268.
20 USC 3912.

"Sec. 102. (a) In carrying out its science and engineering education responsibilities, the Foundation shall have the following functional objectives: public understanding of science and technology, faculty enhancement, student education and training, instructional development and instrumentation, and materials development and dissemination.

Schools and colleges.

"(b) Funds under this title shall, consistent with such functional objectives, be used for—

"(1) enhancement of public understanding of science and engineering through informal education activities using a variety of mediums such as broadcasting, museums, clubs, and amateur science societies;

"(2) development of new science and engineering faculty resources and talents;

"(3) enhancement of the quality of science and engineering instruction in colleges of teacher education;

"(4) development of four-year college faculty and instructors in high technology fields;

"(5) development of two-year community college faculty and instructors especially in high technology fields;

"(6) development of precollege mathematics, science and engineering education and training;

"(7) encouragement of potential students, including underrepresented and underserved populations, to pursue careers in mathematics, science, engineering, and critical foreign languages;

"(8) development of instructional instrumentation and systems for postsecondary technical, engineering, and scientific education; and

"(9) development of science, engineering, and education networks to aid in the development and dissemination of successful curricula, methods, and materials.

"TEACHER INSTITUTES

Grants.
Schools and colleges.
Business and industry.
Museums.
Libraries.
20 USC 3913.
47 USC 397.

"Sec. 103. (a) The Foundation shall, in accordance with the provisions of this title, make competitive grants to institutions of higher education, businesses, nonprofit private organizations (including schools), local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of the Communications Act of 1934), and appropriate State agencies to support institutes and workshops for supervisors and teachers in public and private elementary and secondary schools for the purpose of improving the subject knowledge and teaching skills of such teachers in the areas of mathematics and science.

"(b) In making grants under this section, the Foundation shall assure that there is an equitable distribution among States of institutes established and operated with funds made available under this section. The Foundation shall award not less than one institute in each State, except that the Foundation may waive this requirement if there is no proposal from a State which meets the requirements of this title. Proposals which exceed $300,000 in any fiscal year incorporating the services or resources of more than two entities in the design and operation of the institute, may be funded at the discretion of the Director of the Foundation.

Grants.

"(c) Institutes assisted under this title may, to the extent possible, involve the cooperation of advanced technology businesses and other businesses which are able to supply assistance in the teaching of mathematics and science.

Business and industry.

"(d) In making grants under this title, the Foundation shall require assurances that local education agencies will be involved in the planning and development of the institute in the case of applications submitted by other eligible applicants described in subsection (a) of this section, or that one or more such applicants will be involved in the planning and development of the institute in the case of applications submitted by State or local education agencies.

Grants.

"MATERIALS DEVELOPMENT AND METHODS RESEARCH FOR MATHEMATICS, SCIENCE, AND ENGINEERING

"SEC. 104. (a) The Foundation is authorized, in accordance with the provisions of this title, to award competitive grants to institutions of higher education, businesses, nonprofit private organizations, local education agencies, professional engineering and scientific associations, museums, libraries, public broadcasting entities (as defined in section 397(11) of the Communications Act of 1934), and appropriate State agencies—

Grants.
20 USC 3914.
Schools and colleges.
Business and industry.
Museums.
Libraries.
20 USC 3914.
47 USC 397.

"(1) for instructional curriculum improvement and faculty development in mathematics, science, and engineering;

"(2) for programs designed to enhance public understanding of mathematics, science, and engineering, including the use of public broadcasting entities; and

"(3) for research on methods of instruction and educational programs in mathematics, science, engineering, and critical foreign languages.

"(b) Studies conducted under subsection (a)(3) may include—

"(1) teaching and learning research and its application to local and private sector instructional materials development and to improved teacher training programs;

"(2) research on the use of local and informal science education activities;

"(3) research on recruitment, retention, and improvement of mathematics, science, engineering, and critical languages faculties; and

"(4) analysis of materials and methods for mathematics, science, and engineering education used in other countries and their potential application in the United States.

"(c) Funds awarded for such competitive grants shall be expended through a system requiring matching of the grant. The minimum amount required as a match shall be equal to a percentage of the grant that is determined by the Foundation. Funds made available for matching purposes may include in-kind services or other resources.

"(d) In making grant applications for materials or methods research for the purposes described in subsections (a)(1) and (a)(3), the Foundation shall assure the involvement of appropriate State or local education agencies in the case of applications submitted by other entities described in subsection (a), or that one or more of such other entities will be consulted in the case of applications submitted by State or local education agencies.

"GRADUATE FELLOWSHIPS

20 USC 3915.

"Sec. 105. The Foundation is authorized, in accordance with the provisions of this title, to establish and carry out a program of graduate fellowships for the purpose of encouraging and assisting promising students to continue their education and research in mathematics, science, and engineering.

"OTHER FUNCTIONAL ACTIVITIES

20 USC 3916.

"Sec. 106. (a) The Foundation is authorized to expend up to 15 per centum of the funds available for science and engineering education for applications which the Foundation determines will meet one or more of the functional objectives described in section 102(b).

Ante, p. 894.
Schools and colleges.
Minorities.
Disadvantaged persons.

"(b) Such programs may include a program for the exchange of mathematics, science, or engineering faculty between institutions of higher education (particularly institutions having nationally recognized research facilities) and eligible institutions. For the purposes of this section, the term 'eligible institution' means an institution of higher education which—

"(1) has an enrollment which includes a substantial percentage of students who are members of a minority group, or who are economically or educationally disadvantaged; or

"(2) is located in a community that is not within commuting distance of a major institution of higher education; and

"(3) demonstrates a commitment to meet the special educational needs of students who are members of a minority group or are economically or educationally disadvantaged.

"SCIENCE AND ENGINEERING EDUCATION STRATEGIC PLAN

20 USC 3917.

"Sec. 107. The Foundation shall develop a five-year strategic plan for science and engineering education, to be up-dated on an annual basis, and submitted to the Committee on Labor and Human Resources of the Senate, and the Committee on Science and Technology of the House of Representatives by November 30 of each year.

"APPROVAL OF PROPOSALS

20 USC 3918.

"Sec. 108. The Foundation shall adopt approval procedures designed to assure that awards are made on the basis of the scientific and educational merit as determined by the peer review process. To the maximum extent possible, the Foundation shall assure that there is an equitable distribution of resources with respect to institutions and geographical areas.

"SPECIAL CONSIDERATION OF UNDERREPRESENTED AND UNDERSERVED POPULATIONS

"Sec. 109. In providing financial assistance under this title, the Foundation shall make every effort to ensure that consideration is given to proposals which contain provisions designed to meet the needs of underrepresented and underserved populations. 20 USC 3919.

"AVAILABILITY OF FUNDS

"Sec. 110. Funds to carry out this title for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education. For fiscal year 1986, funds to carry out this title shall be available from amounts authorized by section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986. 20 USC 3920. *Ante*, p. 887.

"PROHIBITION AGAINST THE FEDERAL CONTROL OF EDUCATION

"Sec. 111. The provisions of section 432 of the General Education Provisions Act, relating to prohibition against Federal control of education, shall apply to each program and award authorized by this title. 20 USC 3921. 20 USC 1232a.

"PARTICIPATION OF TEACHERS FROM PRIVATE SCHOOLS

"Sec. 112. The Foundation shall, after consultation with appropriate private school representatives, make provision for the benefit of teachers in private elementary and secondary schools in the programs authorized by this title, in order to assure equitable participation of such teachers.". 20 USC 3922.

Part B—Education for Economic Security

DEFINITIONS

Sec. 221. Section 3(1) of the Act is amended by striking out "section 195(2) of the Vocational Education Act of 1965" and inserting in lieu thereof "section 521(3) of the Carl D. Perkins Vocational Educational Act.". 98 Stat. 1267. 20 USC 3902. 98 Stat. 2482. 20 USC 2471.

PROGRAM REAUTHORIZATION

Sec. 222. (a) Section 203(b) of the Act is amended— 98 Stat. 1274. 20 USC 3963.

(1) by striking out "and", and

(2) by inserting after "1985" a comma and the following: "and $350,000,000 for each of the fiscal years 1986, 1987, and 1988".

(b) Section 205 of the Act is amended by striking out "the fiscal years 1984 and 1985" each place it appears and inserting in lieu thereof "the fiscal years 1984, 1985, 1986, 1987, and 1988". 98 Stat. 1275. 20 USC 3965.

STATE ALLOTMENTS

Sec. 223. (a) Section 204(a)(2) of the Act is amended— 98 Stat. 1274. 20 USC 3964.

(1) by inserting "(A)" after the paragraph designation;

(2) by striking out "the remaining 10 per centum" and inserting in lieu thereof "9 per centum of such amount"; and

(3) by adding at the end thereof the following new subparagraph:

"(B) The Secretary shall reserve the remaining 1 per centum to carry out the provisions of subsection (c).".

98 Stat. 1274.
20 USC 3964.

(b) Section 204(c) of the Act is amended to read as follows:

"(c)(1) From the amount reserved for each fiscal year under subsection (a)(2)(B), the Secretary shall allot—

Children and youth.
Indians.

"(A) not less than one-half of that amount to whatever agency the Secretary determines appropriate for programs authorized by this title for children in elementary and secondary schools operated for Indian children by the Department of the Interior; and

Guam.
American Samoa.
Virgin Islands.
Northern Mariana Islands.
Trust Territory of the Pacific Islands.

"(B) the remainder of that amount among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this title.

"(2) The Secretary shall make payments under paragraph (1)(A) on whatever terms the Secretary determines will best carry out the purpose of this title.

ELEMENTARY AND SECONDARY EDUCATION PROGRAM

98 Stat. 1275.
20 USC 3966.

SEC. 224. (a) Section 206(b)(1)(A) of the Act is amended by striking out "inservice training" and inserting in lieu thereof "training, inservice training,".

(b)(1) Section 206(b)(1)(B) of the Act is amended to read as follows:

98 Stat. 1280.
20 USC 3970.

"(B) if the local educational agency determines that the agency has met its need for training, inservice training, and retraining under subparagraph (A), subject to the provisions of section 210(c), such training, inservice training, and retraining in the fields of computer learning and foreign languages, and the acquisition of instructional materials and equipment related to mathematics and science instruction.".

(2) The third sentence of section 206(b)(1) is amended by striking out "private" before "organizations,".

(3) The fifth sentence of section 206(b)(1) of the Act is amended by inserting "training," before "inservice training".

(c) Section 206(b)(2)(A) of the Act is amended to read as follows:

Schools and colleges.
Children and youth.
Teachers.

"(2)(A) The State educational agency shall distribute 50 per centum of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school district of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools and (i) private nonprofit schools, or (ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this title. Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools desire that their children and teachers participate in programs or projects assisted under this title.".

(d) The first sentence of section 206(d) of the Act is amended—

(1) by striking out "for demonstration and exemplary programs" in the matter preceding clause (1); and

(2) by inserting "demonstration and exemplary programs for" immediately after the clause designation in clauses (1), (2), and (3), respectively.

HIGHER EDUCATION

98 Stat. 1277.
20 USC 3967.

SEC. 225. (a) Section 207(b)(2)(B) of the Act is amended to read as follows:

Teachers.

"(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics, science, foreign languages, or computer learning to specialize in the teaching of mathematics, science, foreign languages, or computer learning, including the provision of stipends for participation in institutes authorized under title I; and".

(b)(1) Section 207(b)(2)(C) of the Act is amended by striking out "and science" and inserting in lieu thereof a comma and the following: "science, foreign languages".

(2) The second sentence of section 207(b)(2) of the Act is amended by inserting after "science" a comma and the following: "foreign languages".

(c) The first sentence of section 207(c)(1) of the Act is amended—

(1) by striking out "private nonprofit organizations" and inserting in lieu thereof "nonprofit organizations"; and

(2) by inserting "computer learning" immediately before "and critical foreign languages".

STATE ASSESSMENT

98 Stat. 1278.
20 USC 3968.

SEC. 226. (a)(1) The second sentence of section 208(a) of the Act is amended by striking out "section 210" and inserting in lieu thereof "section 210(b)".

(2) The fourth sentence of section 208(a) of the Act is amended by striking out "first" and inserting "preliminary".

(b) Section 208(c)(1)(E) of the Act is amended by striking out "public" and inserting in lieu thereof "nonprofit".

(c) Section 208 of the Act is amended by adding at the end thereof the following new subsection:

Report.

"(d) The Secretary shall prepare and submit to the Congress a summary report of the final version of the assessments submitted by States under subsection (a) as soon as practicable after the receipt of such assessments.".

STATE APPLICATION

98 Stat. 1279.
20 USC 3969.

SEC. 227. Section 209(b) of the Act is amended—

(1) by striking out "sections 207 and 208" in clause (1) and inserting in lieu thereof "sections 206 and 207";

(2) by striking out "sections 207 and 208" in clause (3) and inserting in lieu thereof "sections 206 and 207";

Schools and colleges.

(3) by striking out "by local educational agencies, institutes of higher education, junior or community colleges, and other organizations for programs described in section 206" in clause (4)(A) and inserting in lieu thereof "for programs described in sections 206 and 207"; and

(4)(A) by striking out "of such funds, be available for" in clause (6) and inserting in lieu thereof "of such Federal funds, be available from non-Federal sources for";

(B) by striking out "sections 207 and 208" in clause (6) and inserting in lieu thereof "sections 206 and 207"; and

(C) by inserting before the semicolon in clause (6) the following: "from non-Federal sources".

LOCAL EDUCATION ASSESSMENTS

98 Stat. 1281.
20 USC 3970.

Sec. 228. The first sentence of section 210(c) of the Act is amended—

(1) by striking out "retraining" and inserting in lieu thereof "training, retraining,"; and

(2) by striking out "its funds" and inserting in lieu thereof the following: "all or a portion of its funds".

PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS

98 Stat. 1281.
20 USC 3971.

Sec. 228A. (a) Section 211(a) of the Act is amended by inserting "nonprofit" before "elementary".

(b) Section 211(b) of the Act is amended by inserting "nonprofit" before "elementary".

(c) Section 211(c) of the Act is amended by inserting "nonprofit" after "private".

SECRETARY'S DISCRETIONARY FUND FOR PROGRAMS OF NATIONAL SIGNIFICANCE

Grants.
Contracts.
98 Stat. 1281.
20 USC 3972.

Sec. 229. (a) Section 212(a) of the Act is amended to read as follows:

"(a) From the amount reserved by the Secretary under section 204(a)(2)(A), the Secretary is authorized to carry out directly, or through grants, cooperative agreements, or contracts, projects which are authorized by this section.".

(b) Section 212(b)(1) of the Act is amended—

(1) by striking out "make grants to" in the first sentence and inserting in lieu thereof "make grants to and enter into cooperative agreements with"; and

(2) by striking out "awarding of grants" in the third sentence and inserting in lieu thereof "awarding of grants and cooperative agreements".

PAYMENTS

98 Stat. 1282.
20 USC 3973.

Sec. 230. Section 213(a) of the Act is amended by striking out "section 211" and inserting in lieu thereof "section 212".

PART C—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING

ADMINISTRATIVE AMENDMENT

98 Stat. 1283.
20 USC 3982.

Sec. 231. Title III of the Act is amended by striking out "Foundation" wherever it appears (other than in section 303(3)) in such title and inserting in lieu thereof "Secretary".

DEFINITIONS

98 Stat. 1283.
20 USC 3982.

Sec. 232. Section 303 of the Act is amended:

(1) by inserting "and" at the end of clause (2);
(2) by striking out clauses (3), (4), and (5); and
(3) by redesignating clause (6) as clause (3).

PARTNERSHIP PROGRAM AUTHORIZATION

SEC. 233. Section 304(b) of the Act is amended to read as follows: 98 Stat. 1284. 20 USC 3983.

"(b) There are authorized to be appropriated $50,000,000 for each of the fiscal years 1986, 1987, and 1988, to carry out the provisions of this title.".

PART D—PRESIDENTIAL AWARDS

AUTHORIZATION AND AVAILABILITY OF FUNDS

SEC. 241. (a) Section 403(a) of the Act is amended to read as follows: 98 Stat. 1287. 20 USC 4003.

"(a) Funds to carry out this title for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education. For fiscal year 1986, funds to carry out this title shall be available from amounts authorized by section 102(a)(8) of the National Science Foundation Authorization Act for fiscal year 1986. Not more than $1,000,000 are authorized to be available to carry out this title.". Prohibition. *Ante*, p. 887.

(b) Section 403(b) of the Act is amended by inserting after "subsection (a)" the following: "and amounts made available under subsection (a)".

PART E—EXCELLENCE IN EDUCATION

PROGRAM REAUTHORIZATION

SEC. 251. Section 604(b)(1) of the Act is amended by striking out "the fiscal years 1984 and 1985" and inserting in lieu thereof "the fiscal year 1984 and each of the succeeding fiscal years ending prior to October 1, 1988,". 98 Stat. 1296. 20 USC 4033.

PART F—MAGNET SCHOOLS ASSISTANCE

AUTHORIZATION OF APPROPRIATIONS

SEC. 261. Section 701 of the Act is amended by striking out "and 1986" and inserting in lieu thereof "1986, 1987, and 1988". 98 Stat. 1299. 20 USC 4051.

STATEMENT OF PURPOSE

SEC. 262. Section 703 of the Act is amended to read as follows: 98 Stat. 1299. 20 USC 4053.

"STATEMENT OF PURPOSE

"SEC. 703. It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and Minorities.

"(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.".

USES OF FUNDS

98 Stat. 1300. 20 USC 4056.

SEC. 263. Section 706 of the Act is amended to read as follows:

"USES OF FUNDS

Grants.

"SEC. 706. Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion and enhancement of academic programs and services offered at magnet schools;

Computers.

"(2) the acquisition of books, materials, and equipment including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

Teachers.

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.".

MODIFICATION OF PROHIBITION

98 Stat. 1301. 20 USC 4059.

SEC. 264. Section 709 of the Act is amended to read as follows:

"PROHIBITIONS

Grants.

"SEC. 709. Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.".

TITLE III—LIBRARY SERVICES PROGRAM

LIBRARY SERVICES AND CONSTRUCTION ACT AMENDMENTS

SEC. 301. (a) Section 3(12) of the Library Services and Construction Act (20 U.S.C. 351a(12)) (hereafter in this title referred to as the "Act") is amended by striking out "five-year program" and inserting in lieu thereof "program of not less than three nor more than five years".

98 Stat. 2237.

(b) Section 3(15) of the Act is amended—

(1) by inserting "by the Secretary of the Interior" after "recognized"; and

(2) by striking out ", as determined by the Secretary after consultation with the Secretary of the Interior".

APPLICABILITY OF PUBLIC LIBRARY PROVISIONS TO HAWAIIAN NATIVE PROGRAM

Contracts. 98 Stat. 2238.

SEC. 302. (a)(1) The first sentence of section 5(d)(2) of the Act (20 U.S.C. 351c(d)(2)) is amended by striking out "sections 403" and inserting in lieu thereof "sections 402(b), 403,".

98 Stat. 2243. 20 USC 362. 98 Stat. 2244. 20 USC 363.

(2) The second sentence of section 5(d)(2) of the Act is amended by inserting immediately before the period ", to contract to provide public library services to Native Hawaiians, and to carry out any other activities authorized under this sentence by contract".

(3) Section 5(d)(2) of the Act is amended by adding at the end thereof the following new sentence: "The Secretary shall issue criteria for the approval of applications and plans but the criteria may not include an allotment formula and may not contain a matching of funds requirement.". 98 Stat. 2238. 20 USC 351c.

(b) Section 6(b)(4) of the Act (20 U.S.C. 351d(b)(4)) is amended by inserting "(as defined in section 703(a) of the Bilingual Education Act)" after "limited English-speaking proficiency". 98 Stat. 2239. 20 USC 880b note.

CORRECTION OF ADMINISTRATIVE COST MISINTERPRETATION

SEC. 303. (a) The references in section 8 of the Act (20 U.S.C. 351f) to "such titles" mean, and shall be construed as meaning, the immediately preceding reference to "titles I, II, and III". 98 Stat. 2240. 20 USC 351f note.

(b) The matter preceding clause (1) of section 102(b)(1) of the Act (20 U.S.C. 353(b)(1)) is amended by striking out "this title" and inserting in lieu thereof "this Act".

MAJOR URBAN RESOURCE LIBRARY RESERVED AMOUNTS

Indians. Hawaiian natives.

SEC. 304. Section 102(c)(1) of the Act (20 U.S.C. 353(c)(1)) is amended by inserting "(excluding the amount made available for Indian tribes and Hawaiian natives)" after "section 4(a)".

SERVICES TO TRIBES IN STATES WITHOUT INDIAN RESERVATIONS

SEC. 305. Title IV of the Act (20 U.S.C. 361 et seq.) is amended by adding at the end thereof the following new section:

"SERVICES IN STATES WITH INDIAN TRIBES NOT RESIDING ON OR NEAR RESERVATIONS

"SEC. 406. The provisions of this title requiring that services be provided on or near Indian reservations, or to only those Indians who live on or near Indian reservations, shall not apply in the case of Indian tribes and Indians in California, Oklahoma, and Alaska.". Prohibition. California. Oklahoma. Alaska. 20 USC 366.

TITLE IV—MINORITY INSTITUTIONS; MIGRATORY CHILDREN PROGRAM

MINORITY INSTITUTIONS SCIENCE IMPROVEMENT PROGRAM AUTHORIZATION

SEC. 401. The General Education Provisions Act is amended— 20 USC 1221. 20 USC 1221e-1b.

(1) by redesignating section 406A (as added by the Education Amendments of 1980; 94 Stat. 1497) as section 406B; and

(2) by inserting after such section the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR SCIENCE IMPROVEMENT PROGRAM

"SEC. 406C. There are authorized to be appropriated $5,000,000 for each of the fiscal years 1985 and 1986 for the purpose of carrying out the Minority Institutions Science Improvement Program transferred to the Secretary of Education from the National Science Foundation by section 304 of the Department of Education Organization Act.". 20 USC 1221e-1c. 20 USC 3444.

MIGRATORY CHILDREN RECORDS SYSTEM

Grants.
Contracts.
20 USC 2763.

SEC. 402. Section 143(a) of the Elementary and Secondary Education Act of 1965 is amended—

(1) by striking out "grants to, or enter into contracts with," and inserting in lieu thereof "enter into contracts with"; and

(2) by adding at the end thereof the following: "For the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year. No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.".

TITLE V—HARRY S TRUMAN MEMORIAL SCHOLARSHIP PROGRAM

PROGRAM AMENDMENT

20 USC 2007.

SEC. 501. Section 8 of the Harry S Truman Memorial Scholarship Act is amended by striking out "$5,000" and inserting in lieu thereof "$10,000 (adjusted annually to reflect increases, if any, in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics)".

TITLE VI—EDUCATION OF THE HANDICAPPED ACT

EDUCATION OF THE HANDICAPPED ACT AMENDMENTS

SEC. 601. (a) Section 611(c)(2)(A)(II) of the Education of the Handicapped Act (20 U.S.C. 1411(c)(2)(A)(i)(II)) is amended by striking out "300,000" and inserting in lieu thereof "350,000".

(b) Section 611(c)(1)(B) of such Act is amended by striking out "paragraph (3)" and inserting in lieu thereof "paragraph (4)".

EFFECTIVE DATE

20 USC 1411
note.

SEC. 602. The amendment made by section 601(a) shall take effect on July 1, 1985.

TITLE VII—CARL D. PERKINS VOCATIONAL EDUCATION ACT TECHNICAL AMENDMENTS

TERRITORIAL HOLDHARMLESS

SEC. 701. Section 101(a)(3)(D) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2311(a)(3)(d)) (hereafter in this title referred to as the "Act") is repealed.

STATE ALLOCATION

98 Stat. 2440.
20 USC 2312.

SEC. 702. Section 102 of the Act is amended to read as follows:

"WITHIN STATE ALLOCATION

"SEC. 102. (a)(1) Each State shall reserve from its allotment of funds appropriated under section 3(a) for each fiscal year an amount that does not exceed 7 percent of the allotment for State administration of the State plan. If the cost of carrying out the provisions of section 111(b) exceeds 1 percent of a State's allotment of funds appropriated under section 3(a), the State may reserve that excess amount from that allotment in addition to the 7 percent authorized by the preceding sentence.

98 Stat. 2437.
20 USC 2302.
98 Stat. 2441.
20 USC 2321.

"(2) The amount reserved under paragraph (1) shall be considered as part of that portion of the State's allotment that is retained for State activities and is not distributed under section 113(b)(4).

98 Stat. 2445.
20 USC 2323.

"(b) From the remainder of its allotment of funds appropriated under section 3(a), each State shall reserve for each fiscal year—

"(1) 57 percent for activities described in part A of title II; and

"(2) 43 percent for activities described in part B of title II.".

98 Stat. 2450.
20 USC 2331.
98 Stat. 2455.
20 USC 2341.

STATE COUNCIL ON VOCATIONAL EDUCATION

SEC. 703. (a) Section 112(b) of the Act is amended to read as follows:

98 Stat. 2443.
20 USC 2322.

"(b) The State shall certify to the Secretary the establishment and membership of the State council by the beginning of each State plan period described in section 113(a)(1).".

98 Stat. 2445.
20 USC 2323.

(b) Section 112(d) of the Act is amended by striking out "(d)" and all that follows through clause (1) and inserting in lieu thereof the following:

"(d) During each State plan period described in section 113(a)(1), each State council shall—

"(1) meet with the State board or its representatives to advise on the development of the subsequent State plan;".

(c)(1) Section 112(f)(1)(A) of the Act is amended by striking out "From" and inserting in lieu thereof "Except as provided in subparagraph (B), from".

(2) Section 112(f)(1)(B) of the Act is amended to read as follows:

"(B) From the amounts appropriated pursuant to section 3(c), for each fiscal year, the Secretary shall make grants of $50,000 to the State councils of the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.".

Grants.
Virgin Islands.
Guam.
American Samoa.
Northern Mariana Islands.
Trust Territory of the Pacific Islands.

STATE PLANS

SEC. 704. Section 113(b)(9)(C) of the Act is amended by striking out "not less than" and all that follows through "year" and inserting in lieu thereof "the projects, services, and activities supported under this Act of not less than 20 percent of the participating eligible recipients within the State in each fiscal year".

98 Stat. 2437.
20 USC 2302.
98 Stat. 2445.
20 USC 2323.

WITHIN STATE ALLOCATION

SEC. 705. Section 203(a)(3) of the Act is amended to read as follows:

Disadvantaged persons.
98 Stat. 2453.
20 USC 2333.

"(3) The State board shall ensure that each eligible recipient that receives funds under paragraph (2) uses those funds to provide vocational education services and activities for individuals with limited English proficiency at least in proportion to the number of such individuals enrolled by that eligible recipient in the fiscal year preceding the fiscal year in which the determination is made as compared to the total number of disadvantaged individuals, including individuals with limited English proficiency, so enrolled in that fiscal year.".

CONSUMER AND HOMEMAKING EDUCATION

SEC. 706. (a) The heading of part B of title III of the Act is amended to read as follows:

"PART B—CONSUMER AND HOMEMAKING EDUCATION".

98 Stat. 2458. 20 USC 2361.

(b)(1) The first sentence of section 311 of the Act is amended by striking out "homemaker" and inserting in lieu thereof "homemaking".

(2) The heading of section 311 of the Act is amended to read as follows:

"CONSUMER AND HOMEMAKING EDUCATION GRANTS".

98 Stat. 2458. 20 USC 2362.

(c)(1) Subsection (b) of section 312 of the Act is amended by striking out "homemaker" and inserting in lieu thereof "homemaking" both places it appears.

(2) The heading of section 312 of the Act is amended to read as follows:

"USE OF FUNDS FROM CONSUMER AND HOMEMAKING EDUCATION GRANTS".

(d) The table of contents of the Act is amended by striking out the items relating to part B of title III and sections 311 and 312 and by inserting in lieu thereof the following:

"PART B—CONSUMER AND HOMEMAKING EDUCATION

"Sec. 311. Consumer and homemaking education grants.
"Sec. 312. Use of funds from consumer and homemaking education grants.".

CONSUMER AND HOMEMAKING EDUCATION STATE LEADERSHIP

98 Stat. 2459. 20 USC 2363.

SEC. 707. Section 313(b) of the Act is amended by striking out "to carry out leadership activities under this section." and inserting in lieu thereof "for State administration of projects, services, and activities under this part.".

CAREER GUIDANCE AND COUNSELING STATE LEADERSHIP

98 Stat. 2463. 20 USC 2383.

SEC. 708. Section 333(b) of the Act is amended by striking out "to carry out leadership activities under this section." and inserting in lieu thereof "for State administration of projects, services, and activities under this part.".

AUTHORIZATION OF GRANTS

98 Stat. 2464. 20 USC 2392.

SEC. 709. Section 342(c) of the Act is amended by striking out "subsection (b)(2)" both places it appears and inserting in lieu thereof "subsection (b)(3)".

MODEL CENTERS FOR VOCATIONAL EDUCATION FOR OLDER INDIVIDUALS

SEC. 710. Section 417(b) of the Act is amended by inserting "shall" immediately after "subpart".

98 Stat. 2471.
20 USC 2417.

FEDERAL SHARE

SEC. 711. (a) Section 502(a) of the Act is amended in the introductory clause by striking out "shall be" and inserting in lieu thereof "shall not exceed".

98 Stat. 2479.
20 USC 2462.

(b)(1) Section 502(a)(2) of the Act is amended by striking out "not to exceed".

(2) Section 502(b) of the Act is amended by adding at the end thereof the following new sentence: "The non-Federal contributions for the costs of vocational education programs, services, and activities for the disadvantaged from local sources may be in cash or in kind, fairly valued, including facilities, overhead, personnel, equipment, and services, if the eligible recipient determines that it cannot otherwise provide such contribution.".

Disadvantaged persons.

TRANSITION

SEC. 712. The matter preceding clause (1) of section 3(a) of Public Law 98-524 (98 Stat. 2487) is amended to read as follows: "Until July 1, 1986, a State or eligible recipient may use funds received under the Vocational Educational Act of 1963 or the Carl D. Perkins Vocational Education Act to—".

20 USC 2301 note.
20 USC 2301 note.
98 Stat. 2435.
20 USC 2301 note.

TECHNICAL AMENDMENTS

SEC. 713. (a)(1) Section 113(b)(10) of the Act (20 U.S.C. 2323(b)(10)) is amended by inserting "of 1981" after "Education Consolidation and Improvement Act".

98 Stat. 2445.

(2) Section 113(b)(11) of the Act is amended by inserting "provide assurances" before "that".

(3) Section 504(d)(1) of the Act is amended by striking out "section 434(c)" and inserting in lieu thereof "section 453".

98 Stat. 2480.
20 USC 2464.

(4) Section 521(15) of the Act is amended by inserting "or language" immediately after "speech".

98 Stat. 2482.
20 USC 2471.

(b)(1) Section 4(a)(1)(A) of Public Law 98-524 is amended by striking out "section 4(15)" and inserting in lieu thereof "section 521(19)".

98 Stat. 2487.
29 USC 1503.

(2) Section 4(a)(6)(D) of Public Law 98-524 is repealed.

29 USC 1753.

EFFECTIVE DATE

SEC. 714. (a) The provisions of this title shall take effect July 1, 1985.

Effective date.

(b) The amendment made by section 703(c)(2) of this Act shall not apply to funds appropriated before the date of the enactment of this Act.

Prohibition.
20 USC 2311 note.
Ante, p. 905.

TITLE VIII—HIGHER EDUCATION PROGRAMS

NATIONAL DIRECT STUDENT LOAN APPORTIONMENT

SEC. 801. (a) Section 12 of the "Student Financial Assistance Technical Amendments Act of 1982" is amended—

20 USC 1087bb note.

(1) by inserting "(a)" after the section designation; and

(2) by inserting at the end thereof the following new subsection:

20 USC 1087bb. 20 USC 1087aa.

"(b) Notwithstanding subsections (a) and (b) of section 462 of the Higher Education Act of 1965, if in the fiscal year 1986 the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 are less than the sums appropriated pursuant to such section for the fiscal year 1980, the Secretary shall apportion the sums appropriated pursuant to section 461(b)(1) of the Higher Education Act of 1965 for such fiscal year among the States so that each State's apportionment bears the same ratio to the total amount appropriated as that State's apportionment in fiscal year 1980 bears to the total amount appropriated pursuant to section 461(b)(1) for the fiscal year 1980.".

Effective date. 20 USC 1087bb note.

(b) The amendments made by this section shall take effect October 1, 1985.

NATIONAL GRADUATE FELLOWS PROGRAM

Prohibition. 20 USC 1134h.

SEC. 802. The last sentence of section 931(a) of the Higher Education Act of 1965 is amended to read as follows: "In the fiscal year beginning October 1, 1985, and each succeeding fiscal year, all funds appropriated in each fiscal year shall be awarded to students by April 1 of the fiscal year for which the funds were appropriated. All funds appropriated in a fiscal year shall be obligated and expended to the students for fellowships for use in the academic year beginning after July 1 of the fiscal year for which the funds were appropriated. The fellowships shall be awarded for only 1 academic year of study and shall be renewable for a period not to exceed 4 years of study.".

Approved November 22, 1985.

LEGISLATIVE HISTORY—H.R. 1210 (S. 903) (S. 801):

HOUSE REPORT No. 99-44 (Comm. on Science and Technology).
SENATE REPORTS: No. 99-27 accompanying S. 903 (Comm. on Commerce, Science, and Transportation) and No. 99-131 accompanying S. 801 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 131 (1985):
Apr. 17, considered and passed House.
Sept. 26, considered and passed Senate, amended, in lieu of S. 801.
Oct. 24, House concurred in Senate amendment with amendment.
Nov. 1, Senate concurred in House amendment.

PUBLIC LAW 99-170—DEC. 5, 1985

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 1986

Public Law 99-170
99th Congress

An Act

Dec. 5, 1985
[H.R. 1714]

To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act of 1986".

National Aeronautics and Space Administration Authorization Act of 1986.

TITLE I—NASA AUTHORIZATION

SEC. 101. There is hereby authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1985:

(a) For "Research and development", for the following programs:

(1) Space station, $205,000,000;
(2) Space transportation capability development, $437,300,000;
(3) Physics and astronomy, $620,400,000;
(4) Life sciences, $68,000,000;
(5) Planetary exploration, $354,000,000;
(6) Space applications, $537,800,000;
(7) Technology utilization, $11,100,000;
(8) Commercial use of space, $17,000,000;
(9) Aeronautical research and technology, $354,000,000;
(10) Space research and technology, $166,000,000; and
(11) Tracking and data advanced systems, $16,200,000.

(b) For "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $961,500,000;
(2) Space transportation operations, $1,710,100,000; and
(3) Space and ground network, communications and data systems, $701,300,000.

(c) Except as provided in the last sentence of this subsection for "Construction of facilities", including land acquisition, as follows:

(1) Space transportation facilities at various locations as follows:

(A) Construction of orbiter modification and refurbishment facility, John F. Kennedy Space Center, $14,000,000;
(B) Construction of thermal protection system facility, John F. Kennedy Space Center, $3,600,000;
(C) Modifications for advanced technology engine test stand S-1C, George C. Marshall Space Flight Center, $6,500,000;
(D) Modification for enhanced life support systems testing, Lyndon B. Johnson Space Center, $1,100,000;
(E) Modifications to Pad A payload change-out room, John F. Kennedy Space Center, $2,200,000; and

(F) Modifications to space shuttle main engine support systems, National Space Technology Laboratories, $2,500,000;

(2) Space shuttle payload facilities at various locations as follows:

(A) Construction of payload control rooms, John F. Kennedy Space Center, $1,200,000; and

(B) Construction of spacecraft systems development and integration facility, Goddard Space Flight Center, $8,000,000;

(3) Construction of additions to research projects laboratory, Goddard Space Flight Center, $3,800,000;

(4) Construction of microdevices laboratory, Jet Propulsion Laboratory, $8,900,000;

(5) Construction of numerical aerodynamic simulation facility, Ames Research Center, $8,200,000;

(6) Modifications to the 16-foot transonic tunnel for improved productivity and research capability, Langley Research Center, $4,900,000;

(7) Modification of 64-meter antenna, DSS-14, Goldstone, California, $8,500,000;

(8) Modification of 64-meter antenna, DSS-43, Canberra, Australia, $8,900,000;

(9) Repair of facilities at various locations, not in excess of $750,000 per project, $22,000,000;

(10) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $27,000,000;

(11) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $6,000,000; and

(12) Facility planning and design not otherwise provided for, $12,000,000.

Notwithstanding paragraphs (1) through (12), the total amount authorized by this subsection shall not exceed $139,300,000.

(d) For "Research and program management", $1,367,000,000, and such additional or supplemental amounts as may be necessary for increases in salary, pay, retirement, or other employee benefits authorized by law.

Contracts.
Grants.

(e) Notwithstanding the provisions of subsection (h), appropriations hereby authorized for "Research and development" and "Space flight, control and data communications" may be used (1) for any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate of the nature, location, and estimated cost of such facility.

42 USC 2459a.

(f) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications" or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(g) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(h) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided,* That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs.

SEC. 102. Authorization is hereby granted whereby any of the amounts prescribed in paragraphs (1) through (11), inclusive, of section 101(c)—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward 10 percent, or

Report.

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such action, may be varied upward 25 per centum, to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 per centum of the funds appropriated pursuant to section 101(a) or 101(b) may be transferred to and merged with the "Construction of facilities" appropriation, and, when so transferred, together with $10,000,000 of funds appropriated pursuant to section 101(c) (other than funds appropriated pursuant to paragraph (12) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in section 101(c)), if (1) the Administrator determines such action to be necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Speaker of the House of Representatives and to the President of the Senate and the Committee on Science and Technology of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate a written report containing a full and complete statement concerning (i) the nature of such construction, expansion, or modification, (ii) the cost thereof including the cost of any real estate action pertaining thereto, and (iii) the reason why such construction, expansion, or modification is necessary in the national interest.

Prohibition.
Report.

SEC. 104. Notwithstanding any other provision of this Act, no amount appropriated pursuant to this Act may be used for any program—

Prohibition.

(1) deleted by the Congress from requests as originally made either to the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science and Technology of the House of Representatives;

(2) in excess of the amount actually authorized for that particular program by subsections (a), (b), and (d) of section 101; and

(3) which has not been presented to either such committee,

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 105. It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

42 USC 2459 note.

SEC. 106. No civil space station authorized under section 101(a)(1) may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

Prohibition.

SEC. 107. On and after the date of enactment of this Act, the Inspector General of the National Aeronautics and Space Administration may administer to or take from any person an oath, affirmation or affidavit, whenever necessary in the performance of the functions assigned by the Inspector General Act of 1978 (5 U.S.C. App.). Any such oath, affirmation or affidavit, when administered or taken by or before an investigator or such other employee of the Office of the Inspector General as may be designated by the Inspector General, shall have the same force and effect as if administered or taken by or before an officer having a seal.

SEC. 108. The authorization for space shuttle production and operational capability includes provisions for the production activities necessary to provide for a fleet of four space shuttle orbiters, including the production of structural and component spares, necessary to ensure confident and cost effective operation of the four orbiter fleet as well as provisions for maintaining production readiness for a fifth orbiter vehicle.

42 USC 2451 note.

SEC. 109. Section 204(c) of the National Aeronautics and Space Administration Authorization Act, 1985 (Public Law 98-361; 98 Stat. 430) is amended by striking "twelve" and inserting in lieu thereof "18".

Report.

SEC. 110. Within ninety days of the date of enactment of this Act, the Administrator shall review those recommendations of the President's Private Sector Survey on Cost Control and such other recommendations as may be included in the Office of Management and Budget report "Management of the United States Government—1986" and shall submit a report to the Speaker of the House of Representatives and the President of the Senate and the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the implementation status of each such recommendation which affects the National Aeronautics and Space Administration and which are within the authority and control of the Administrator.

Study.
Handicapped persons.
42 USC 2451 note.

SEC. 111. The Administrator shall initiate an immediate feasibility study to ensure flight opportunities for a diverse segment of the American public, including a physically disabled American.

Report.
42 USC 2466c note.

SEC. 112. The Administrator shall examine and report to the Congress on the feasibility of providing space shuttle launch services on a basis of royalty recovery over the economic life of commercial products produced or processed in space.

Study.
Report.
42 USC 2466c note.

SEC. 113. The Administrator shall conduct a study and report to the Congress on a proposed pricing policy for certain services such as on-orbit service, repair or recovery of spacecraft.

Banks and banking.

SEC. 114. (a) In accordance with the provisions of this section, during fiscal year 1986 the National Aeronautics and Space Administration shall defer payment to the Federal Financing Bank of the amount attributable to principal for which the Administration is obligated during such fiscal year as a result of the contract regarding tracking and data relay satellite services (NAS 5-25,000) entered into under section 6 of the National Aeronautics and Space Administration Authorization Act, 1978 (42 U.S.C. 2463).

Contracts.

(b) The amount of any payment deferred under subsection (a) shall be added to the amount of principal for which the Administration is obligated during fiscal year 1993 as a result of such contract. After the addition of such amount, if the total amount of repayments and prepayments under such contract for which the Administration is obligated during fiscal year 1993 exceeds the total amount of repayments and prepayments under such contract for which the Administration was obligated during fiscal year 1992, the Administration may defer payment of such excess until fiscal year 1994.

Contracts.

(c) The Administrator of the National Aeronautics and Space Administration is authorized to renegotiate such contract, if the Administrator determines that such renegotiation is necessary to enable the Administration to defer payments as provided in this section.

President of U.S.
Report.

SEC. 115. The President shall submit to the Congress at the earliest practicable date, but not later than May 1, 1986, a report on any action taken with respect to the establishment in 1992 of an International Space Year. Such report shall include descriptions of possible international missions and related research and educational activities and such other activities as the President may deem appropriate.

TITLE II—SHUTTLE PRICING POLICY FOR COMMERCIAL AND FOREIGN USERS

Space Transportation System.
42 USC 2466.

SEC. 201. The Congress finds and declares that—

(1) the Space Transportation System is a vital element of the United States space program, contributing to the United States leadership in space research, technology, and development;

(2) the Space Transportation System is the primary space launch system for both United States national security and civil government missions;

(3) the Space Transportation System contributes to the expansion of United States private sector investment and involvement in space and therefore should serve commercial users;

(4) the availability of the Space Transportation System to foreign users for peaceful purposes is an important means of promoting international cooperative activities in the national interest and in maintaining access to space for activities which enhance the security and welfare of mankind;

(5) the United States is committed to maintaining world leadership in space transportation;

(6) making the Space Transportation System fully operational and cost effective in providing routine access to space will maximize the national economic benefits of the system; and

(7) national goals and the objectives for the Space Transportation System can be furthered by a stable and fair pricing policy for the Space Transportation System.

42 USC 2466a.

SEC. 202. The purpose of this title is to set the reimbursement pricing policy for the Space Transportation System for commercial and foreign users which is consistent with the findings included in section 201, encourages the full and effective use of space, and is designed to achieve the following goals—

(1) the preservation of the role of the United States as a leader in space research, technology, and development;

(2) the efficient and cost effective use of the Space Transportation System;

(3) the achievement of greatly increased commercial space activity; and

(4) the enhancement of the international competitive position of the United States.

42 USC 2466b.

SEC. 203. For purposes of this title, the term—

(1) "Administrator" means the Administrator of the National Aeronautics and Space Administration; and

(2) "additive cost" means the average direct and indirect costs to the National Aeronautics and Space Administration of providing additional flights of the Space Transportation System beyond the costs associated with those flights necessary to meet the space transportation needs of the United States Government.

42 USC 2466c.

SEC. 204. (a) The Administrator shall establish and implement a pricing system to recover reimbursement in accordance with the pricing policy under section 202 from each commercial or foreign user of the Space Transportation System, which except as provided in subsections (c), (d), and (e) shall include a base price of not less than $74,000,000 for each flight of the Space Transportation System in 1982 dollars.

Report.

(b) Each year the Administrator shall submit to the President of the Senate, the Speaker of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives, a report, transmitted contemporaneously with the annual budget request of the President, which shall inform the Congress how the policy goals contained in section 202 are being furthered by the shuttle price for foreign and commercial users.

(c)(1) If at any time the Administrator finds that the policy goals contained in section 202 are not being achieved, the Administrator shall have authority to reduce the base price established in subsection (a) after forty-five days following receipt by the President of the Senate, the Speaker of the House, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives of a notice by the Administrator containing a description of the proposed reduction together with a full and complete statement of the facts and circumstances which necessitate such proposed reduction.

(2) In no case shall the minimum price established under subsection (c)(1) be less than additive cost.

(d) The Administrator may set a price lower than the price determined under subsection (a) or (c), or provide no-cost flights, for any commercial or foreign user of the Space Transportation System who is involved in research, development or demonstration programs with the National Aeronautics and Space Administration.

(e) Notwithstanding the provisions of subsection (a), the Administrator shall have the authority to offer reasonable customer incentives consistent with the policy goals in section 202.

42 USC 2466 note.

SEC. 205. This title shall apply to flights of the Space Transportation System beginning on and after October 1, 1988.

TITLE III—OFFICE OF COMMERCIAL SPACE TRANSPORTATION

49 USC app. 2623.

SEC. 301. Section 24 of the Commercial Space Launch Act (Public Law 98-575; 98 Stat. 3064) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $586,000 for fiscal year 1986.".

Approved December 5, 1985.

LEGISLATIVE HISTORY—H.R. 1714:

HOUSE REPORTS: No. 99-32 (Comm. on Science and Technology) and No. 99-379 (Comm. of Conference).
SENATE REPORT No. 99-91 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 131 (1985):
  Apr. 3, considered and passed House.
  June 27, considered and passed Senate, amended.
  Nov. 21, Senate and House agreed to conference report.

Public Law 99-171
99th Congress

An Act

To authorize the Administrator of the National Aeronautics and Space Administration to accept title to the Mississippi Technology Transfer Center to be constructed by the State of Mississippi at the National Space Technologies Laboratories in Hancock County, Mississippi.

Dec. 9, 1985
[H.R. 3235]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION FOR ADMINISTRATOR OF NATIONAL AERONAUTICS AND SPACE ADMINISTRATION TO ACCEPT TITLE TO MISSISSIPPI TECHNOLOGY TRANSFER CENTER.

The Administrator of the National Aeronautics and Space Administration—

(1) may accept title to the Mississippi Technology Transfer Center on behalf of the United States; and

(2) may, subject to the availability of appropriations therefor, enter into an agreement with the Governor of Mississippi with respect to the Center in accordance with the provisions of section 9 of chapter 170 of the Mississippi General Laws of 1985 (as enacted on April 19, 1985).

SEC. 2. LIMITATION ON APPROPRIATIONS.

This Act does not authorize the enactment of new budget authority for a fiscal year before fiscal year 1987.

SEC. 3. DEFINITION OF MISSISSIPPI TECHNOLOGY TRANSFER CENTER.

For purposes of this Act, the term "Mississippi Technology Transfer Center" means any building and related facilities constructed by the State of Mississippi at the National Space Technologies Laboratories in Hancock County, Mississippi, under section 9 of chapter 170 of the Mississippi General Laws of 1985 (as enacted on April 19, 1985) and designated in accordance with such section as the Mississippi Technology Transfer Center.

Approved December 9, 1985.

LEGISLATIVE HISTORY—H.R. 3235:

HOUSE REPORT No. 99-322 (Comm. on Science and Technology).
SENATE REPORT No. 99-187 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 131 (1985):
Oct. 28, considered and passed House.
Nov. 21, considered and passed Senate.

PUBLIC LAW 99-272—APR. 7, 1986

CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT OF 1985

Public Law 99-272
99th Congress

An Act

Apr. 7, 1986
[H.R. 3128]

To provide for reconciliation pursuant to section 2 of the first concurrent resolution on the budget for fiscal year 1986 (S. Con. Res. 32, Ninety-ninth Congress).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Consolidated Omnibus Budget Reconciliation Act of 1985.

SHORT TITLE

SECTION 1. This Act may be cited as the "Consolidated Omnibus Budget Reconciliation Act of 1985".

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Title IX. Medicare, Medicaid, and Maternal and Child Health programs.
Title X. Private health insurance coverage.
Title XI. Single-employer plan termination insurance system amendments.
Title XII. Income security and related programs.
Title XIII. Revenues, trade, and related programs.
Title XIV. Revenue sharing.
Title XV. Civil service, postal service, and governmental affairs generally.
Title XVI. Higher education programs.
Title XVII. Graduate Medical Education Council and technical amendments to the Public Health Service Act.
Title XVIII. Small business programs.
Title XIX. Veterans' programs.
Title XX. Miscellaneous provisions.

TITLE VI—MARITIME, COASTAL ZONE, AND RELATED PROGRAMS

Subtitle A—Boating Safety Fund

SEC. 6001. BOATING SAFETY FUND.

46 USC 13106 note.

An amount equal to one-third of the amount transferred for fiscal year 1985 to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1954 (26 U.S.C. 9503(c)(4)) shall be deposited in the general fund of the Treasury as proprietary receipts of the department in which the Coast Guard is operating and ascribed to Coast Guard activities. Section 13106(a) of title 46, United States Code, shall be applied with respect to fiscal year 1985 by substituting "one-third" for "two-thirds" in the first sentence.

Subtitle B—NOAA Nautical and Aeronautical Products

SEC. 6011. SALE AND DISTRIBUTION OF NOAA NAUTICAL AND AERONAUTICAL PRODUCTS.

(a) Section 1307 of title 44, United States Code, is amended to read as follows:

"§ 1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution

"(a)(1) All nautical and aeronautical products created or published by the National Oceanic and Atmospheric Administration shall be sold at such prices as the Secretary of Commerce shall establish annually, in accordance with the provisions of this subsection. The Secretary shall publish annually the prices at which nautical and aeronautical products are sold to the public.

"(2)(A) Subject to subparagraph (B) of this paragraph, the prices of nautical and aeronautical products may be increased over a period of not less than three years after the date of enactment of this section so as to recover all costs attributable to data base management, compilation, printing, and distribution of such products. The prices of such products may be maintained to recover all such costs thereafter. At the end of such period and every three years thereafter, the Secretary, after consultation with the Secretary of Transportation, shall report to the Congress on the effect of imposing or maintaining such increased prices, including any impact on aviation and marine safety.

"(B) The Secretary, after consultation with the Secretary of Transportation, shall adjust the prices of nautical or aeronautical products in such manner as is necessary to avoid any adverse impact on aviation and marine safety attributable to the prices specified in subparagraph (A) of this paragraph.

"(3) This section shall not be construed to require the establishment of any price for a nautical or aeronautical product where, in the judgment of the Secretary, furnishing of that product to a recipient is a reasonable exchange for voluntary contribution of information by the recipient to a program of the National Oceanic and Atmospheric Administration.

"(4) Prices established under this section may not include costs attributable to the acquisition or processing of nautical or aeronautical data.

"(b) Fees collected from the sale of nautical or aeronautical products under this section and from any licensing of such products which is permitted under any other provision of law shall be deposited in the miscellaneous receipts fund of the United States Treasury.

International organizations.

"(c) The Secretary may distribute nautical and aeronautical products—

"(1) without charge to each foreign government or international organization with which the Secretary or a Federal department or agency has an agreement for exchange of these products without cost; and

"(2) at prices which the Secretary establishes, to the departments and officers of the United States requiring them for official use.

"(d) The fees provided for in this section are for the purpose of reimbursing the United States Government for the costs of creating, publishing or distributing aeronautical and nautical products of the National Oceanic and Atmospheric Administration. The collection of fees authorized by this section shall not alter or expand any duty or liability of the United States under existing law for the performance of functions for which fees are collected, nor shall the collection of fees constitute an express or implied undertaking by the United States to perform any activity in a certain manner.

"(e) For purposes of this section, the term 'nautical and aeronautical products' includes all nautical and aeronautical charts, tide and tidal current tables, tidal current charts, coast pilots, water level products, and associated data bases which are created or published by the National Oceanic and Atmospheric Administration.".

44 USC 1301 *et seq.*

(b) The item relating to section 1307 in the analysis of chapter 13 of title 44, United States Code, is amended to read as follows:

"1307. National Oceanic and Atmospheric Administration: nautical and aeronautical products, sale and distribution.".

Subtitle C—Foreign Fishing Permit Fees

SEC. 6021. FOREIGN FISHING PERMIT FEES.

Paragraph (10) of section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)(10)) is amended to read as follows:

"(10) **Fees.**—(A) Fees shall be paid to the Secretary by the owner or operator of any foreign fishing vessel for which a permit is issued pursuant to this subsection. The Secretary, in consultation with the Secretary of State, shall establish a schedule of such fees which shall apply nondiscriminatorily to each foreign nation.

Vessels.

"(B) Unless subparagraph (C) applies, the fees imposed under subparagraph (A) shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during each fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone and the territorial waters of the United States during such preceding year.

"(C) If the Secretary, in consultation with the Secretary of State, finds that any foreign nation receiving an allocation under section 201(e)—

Conservation.

"(i) is harvesting anadromous species of United States origin at a level that is unacceptable to the Secretary; or

"(ii) is failing to take sufficient action to benefit the conservation and development of United States fisheries;

the fees imposed under subparagraph (A) for the next fiscal year shall be at least in an amount sufficient to return to the United States an amount which bears to the total cost of carrying out the provisions of this Act during that fiscal year the same ratio as the aggregate quantity of fish harvested by foreign fishing vessels within the fishery conservation zone during the preceding year bears to the aggregate quantity of fish harvested by both foreign and domestic fishing vessels within such zone during such preceding year. If the Secretary, in consultation with the Secretary of State, finds, at any time during a fiscal year in which fees calculated under this subparagraph are in effect with respect to a foreign nation, that the conditions requiring that calculation no longer exist, the fees imposed under this paragraph with respect to that nation for the remainder of the fiscal year shall be calculated under subparagraph (B).

"(D) Before the end of each fiscal year, the Secretary, in consultation with the Secretary of State, shall review, based on the criteria established in subparagraph (C) (i) and (ii), the performance of every nation receiving an allocation under section 201(e) and provide written notice to the Congress of his findings and reasons therefor before the end of the fiscal year.

Notice.

"(E) For purposes of this paragraph, the total cost of carrying out the provisions of this Act includes, but is not limited to, fishery conservation and management, fisheries research, administration, and enforcement, but excludes costs for observers covered by surcharges under section 201(i)(4).

Conservation.

"(F)(i) The amounts collected by the Secretary under this paragraph (except the amounts referred to in clause (ii)) shall be transferred to the fisheries loan fund established under section 4 of the Fish and Wildlife Act of 1956 (16 U.S.C. 742(c)) for so long as such fund exists and used for the purpose of making loans therefrom, but only to the extent and in amounts provided for in advance in appropriation Acts.

"(ii) The Secretary shall deposit into the general fund of the United States Treasury the difference between the amounts collected under subparagraph (C) and the amounts that would have been collected had that subparagraph not been enacted.".

Coastal Zone Management Reauthorization Act of 1985.

Subtitle D—Amendments to the Coastal Zone Management Act

16 USC 1451 note.

SEC. 6041. SHORT TITLE.

This subtitle may be cited as the "Coastal Zone Management Reauthorization Act of 1985".

SEC. 6042. REFERENCE.

Whenever in this subtitle an amendment or repeal is expressed in terms of an amendment, or repeal, of a section, subsection, paragraph, or other provision, the reference is to be considered to be made to a section, subsection, paragraph, or other provision of the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.) unless otherwise specified.

SEC. 6043. REDUCTION OF ADMINISTRATIVE GRANTS.

(a) Section 312(c) (16 U.S.C. 1458(c)) is amended by striking "if the Secretary determines" and all that follows thereafter and inserting in lieu thereof the following: "if the Secretary determines that the coastal state—

"(1) is failing to make significant improvement in achieving the coastal management objectives specified in section 303(2) (A) through (I); or

16 USC 1452.

"(2) is failing to make satisfactory progress in providing in its management program for the matters referred to in section 306(i) (A) and (B).".

State and local government.

(b)(1) Subsection (a) of section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455) is amended by striking out "The Secretary may" and all that follows through "if the Secretary—" and substituting in lieu thereof the following: "The Secretary may make grants to any coastal state for the purpose of administering that state's management program, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; 1 to 1 for any fiscal year after fiscal year 1988. The Secretary may make the grant only if the Secretary—".

16 USC 1455a.

(2) Section 306A is amended by striking section (d)(1) and substituting in lieu thereof the following:

State and local government.

"(d)(1) The Secretary may make grants to any coastal state for the purpose of carrying out the project or purpose for which such grants are awarded, if the state matches any such grant according to the following ratios of Federal to state contributions for the applicable fiscal year: 4 to 1 for fiscal year 1986; 2.3 to 1 for fiscal year 1987; 1.5 to 1 for fiscal year 1988; and 1 to 1 for each fiscal year after fiscal year 1988.".

(c) Section 306(g) (16 U.S.C. 1455) is amended by striking out the period at the end of the first sentence and all that follows thereafter and inserting in lieu thereof the following: ", and subject to the following conditions:

State and local government.

"(1) The state shall promptly notify the Secretary of any proposed amendment, modification or other program change and submit it for Secretarial approval. The Secretary may suspend all or part of any grant made under this section pending state submission of the proposed amendment, modification or other program change.

Notice.

"(2) Within 30 days from the date on which the Secretary receives any proposed amendment, the Secretary shall notify the state whether the Secretary approves or disapproves the amendment, or whether the Secretary finds it is necessary to extend the review of the proposed amendment for a period not to exceed 120 days from the date the Secretary received the proposed amendment. The Secretary may extend this 120-day period only as necessary to meet the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

Prohibition.

"(3) The state may not implement any proposed amendment as part of its approved program pursuant to section 306, until after the proposed amendment has been approved by the Secretary.".

SEC. 6044. NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM.

Section 315 (16 U.S.C. 1461) is amended to read as follows:

"NATIONAL ESTUARINE RESERVE RESEARCH SYSTEM

"SEC. 315. (a) ESTABLISHMENT OF THE SYSTEM.—There is established the National Estuarine Reserve Research System (hereinafter referred to in this section as the 'System') that consists of—

"(1) each estuarine sanctuary designated under this section as in effect before the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985; and

Ante, p. 124.

"(2) each estuarine area designated as a national estuarine reserve under subsection (b).

Each estuarine sanctuary referred to in paragraph (1) is hereby designated as a national estuarine reserve.

State and local government.
Research and development.

"(b) DESIGNATION OF NATIONAL ESTUARINE RESERVES.—After the date of the enactment of the Coastal Zone Management Reauthorization Act of 1985, the Secretary may designate an estuarine area as a national estuarine reserve if—

"(1) the Governor of the coastal State in which the area is located nominates the area for that designation; and

"(2) the Secretary finds that—

"(A) the area is a representative estuarine ecosystem that is suitable for long-term research and contributes to the biogeographical and typological balance of the System;

"(B) the law of the coastal State provides long-term protection for reserve resources to ensure a stable environment for research;

"(C) designation of the area as a reserve will serve to enhance public awareness and understanding of estuarine areas, and provide suitable opportunities for public education and interpretation; and

"(D) the coastal State in which the area is located has complied with the requirements of any regulations issued by the Secretary to implement this section.

"(c) Estuarine Research Guidelines.—The Secretary shall develop guidelines for the conduct of research within the System that shall include—

"(1) a mechanism for identifying, and establishing priorities among, the coastal management issues that should be addressed through coordinated research within the System;

"(2) the establishment of common research principles and objectives to guide the development of research programs within the System;

"(3) the identification of uniform research methodologies which will ensure comparability of data, the broadest application of research results, and the maximum use of the System for research purposes;

"(4) the establishment of performance standards upon which the effectiveness of the research efforts and the value of reserves within the System in addressing the coastal management issues identified in subsection (1) may be measured; and

"(5) the consideration of additional sources of funds for estuarine research than the funds authorized under this Act, and strategies for encouraging the use of such funds within the System, with particular emphasis on mechanisms established under subsection (d).

In developing the guidelines under this section, the Secretary shall consult with prominent members of the estuarine research community.

"(d) Promotion and Coordination of Estuarine Research.—The Secretary shall take such action as is necessary to promote and coordinate the use of the System for research purposes including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting estuarine research, give priority consideration to research that uses the System; and

State and local government.

"(2) consulting with other Federal and State agencies to promote use of one or more reserves within the System by such agencies when conducting estuarine research.

Grants.
Education.
State and local governments.

"(e) Financial Assistance.—(1) The Secretary may, in accordance with such rules and regulations as the Secretary shall promulgate, make grants—

"(A) to a coastal State—

"(i) for purposes of acquiring such lands and waters, and any property interests therein, as are necessary to ensure the appropriate long-term management of an area as a national estuarine reserve,

"(ii) for purposes of operating or managing a national estuarine reserve and constructing appropriate reserve facilities, or

"(iii) for purposes of conducting educational or interpretive activities; and

"(B) to any coastal State or public or private person for purposes of supporting research and monitoring within a national estuarine reserve that are consistent with the research guidelines developed under subsection (c).

"(2) Financial assistance provided under paragraph (1) shall be subject to such terms and conditions as the Secretary considers necessary or appropriate to protect the interests of the United States, including requiring coastal States to execute suitable title documents setting forth the property interest or interests of the United States in any lands and waters acquired in whole or part with such financial assistance.

State and local governments.

"(3)(A) The amount of the financial assistance provided under paragraph (1)(A)(i) of subsection (e) with respect to the acquisition of lands and waters, or interests therein, for any one national estuarine reserve may not exceed an amount equal to 50 per centum of the costs of the lands, waters, and interests therein or $4,000,000, whichever amount is less.

"(B) The amount of the financial assistance provided under paragraph (1)(A) (ii) and (iii) and paragraph (1)(B) of subsection (e) may not exceed 50 per centum of the costs incurred to achieve the purposes described in those paragraphs with respect to a reserve.

"(f) Evaluation of System Performance.—(1) The Secretary shall periodically evaluate the operation and management of each national estuarine reserve, including education and interpretive activities, and the research being conducted within the reserve.

Education.
Research and development.

"(2) If evaluation under paragraph (1) reveals that the operation and management of the reserve is deficient, or that the research being conducted within the reserve is not consistent with the research guidelines developed under subsection (c), the Secretary may suspend the eligibility of that reserve for financial assistance under subsection (e) until the deficiency or inconsistency is remedied.

"(3) The Secretary may withdraw the designation of an estuarine area as a national estuarine reserve if evaluation under paragraph (1) reveals that—

Research and development.

"(A) the basis for any one or more of the findings made under subsection (b)(2) regarding that area no longer exists; or

"(B) a substantial portion of the research conducted within the area, over a period of years, has not been consistent with the research guidelines developed under subsection (c).

"(g) Report.—The Secretary shall include in the report required under section 316 information regarding—

16 USC 1462.

"(1) new designations of national estuarine reserves;

"(2) any expansion of existing national estuarine reserves;

"(3) the status of the research program being conducted within the System; and

"(4) a summary of the evaluations made under subsection (f).".

SEC. 6045. REPEALS.

The following are repealed:

(1) Section 310 (16 U.S.C. 1456c; relating to research and technical assistance programs and grants).

(2) Section 314 (16 U.S.C. 1460; establishing the Coastal Zone Management Advisory Committee).

(3) Subsection (c) of section 15 of the Coastal Zone Management Act Amendments of 1976, Public Law 94-370 (16 U.S.C. 1451 note; relating to certain additional personnel positions).

SEC. 6046. AUTHORIZATIONS OF APPROPRIATIONS.

Section 318 (16 U.S.C. 1464) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) such sums, not to exceed $35,000,000 for the fiscal year ending September 30, 1986, not to exceed $36,600,000 for the fiscal year ending September 30, 1987, $37,900,000 for the fiscal year ending September 30, 1988, $38,800,000 for the fiscal year ending September 30, 1989, and $40,600,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under sections 306 and 306A, to remain available until expended;"; *Ante*, pp. 124, 125.

(2) by striking paragraph (2) and renumbering the succeeding paragraphs; and

(3) by amending paragraphs (3), (4), and (5) (as renumbered by paragraph (2) of this section) to read as follows:

"(3) such sums, not to exceed $1,000,000 for the fiscal year ending September 30, 1986, and not to exceed $1,500,000 for each of the fiscal years occurring during the period beginning October 1, 1986, and ending September 30, 1990, as may be necessary for grants under section 309, to remain available until expended; 16 USC 1456b.

"(4) such sums, not to exceed $2,500,000 for the fiscal year ending September 30, 1986, not to exceed $3,800,000 for the fiscal year ending September 30, 1987, $4,500,000 for the fiscal year ending September 30, 1988, $5,000,000 for the fiscal year ending September 30, 1989, and $5,500,000 for the fiscal year ending September 30, 1990, as may be necessary for grants under section 315, to remain available until expended; and *Ante*, p. 125.

"(5) such sums, not to exceed $3,300,000 for the fiscal year ending September 30, 1986, not to exceed $3,300,000 for the fiscal year ending September 30, 1987, $3,300,000 for the fiscal year ending September 30, 1988, $4,000,000 for the fiscal year ending September 30, 1989, and $4,000,000 for the fiscal year ending September 30, 1990, as may be necessary for administrative expenses incident to the administration of this title.".

SEC. 6047. TECHNICAL AMENDMENT.

Section 308(h) (16 U.S.C. 1456a(h)) is amended by deleting "subsections (c)(1)" each place it appears and inserting instead "subsections (c)".

Subpart E—National Oceanic and Atmospheric Administration

SEC. 6051. AUTHORIZATION OF APPROPRIATIONS.

(a) For purposes of this section—

(1) The term "Administration" means the National Oceanic and Atmospheric Administration.

(2) The term "Department" means the Department of Commerce.

(b) There are authorized to be appropriated to the Department to enable the Administration to carry out its executive direction and administration functions and duties under law, $47,667,000 for fiscal year 1986 and $49,812,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to executive direction and administration authorized by the Act entitled "An Act to clarify the status and benefits of commissioned officers of the National Oceanic and Atmospheric Administration, and for other purposes", approved December 31, 1970 (33 U.S.C. 857-1 et seq.), and any other law involving such functions and duties. Such functions and duties include management, administrative support, retired pay of National Oceanic and Atmospheric Administration commissioned officers, and policy development.

(c) There are authorized to be appropriated to the Department to enable the Administration to carry out its marine services functions and duties under law, $61,791,000 for fiscal year 1986 and $64,572,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to marine services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include ship operations, maintenance, and support.

(d) There are authorized to be appropriated to the Department to enable the Administration to carry out its aircraft services functions and duties under law, $14,779,000 for fiscal year 1986 and $15,440,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to aircraft services authorized by the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Service to the Department of Agriculture", approved October 1, 1890 (15 U.S.C. 311 et seq.), and any other law involving such functions and duties. Such functions and duties include aircraft operations, maintenance, and support.

(e) For the purpose of enabling the Administration to carry out its functions and duties under the National Advisory Committee on Oceans and Atmosphere Act of 1977 (33 U.S.C. 857-13 et seq.), there are authorized to be appropriated to the Department $500,000 for fiscal year 1986.

(f)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its nonliving marine resource functions and duties under law, $1,800,000 for fiscal year 1986 and $1,881,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to nonliving marine resources authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include research, development, and licensing responsibilities pertaining to ocean thermal energy conversion and the deep seabed mining of manganese nodules, and polymetallic sulfide analyses and research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Deep Seabed Hard Mineral Resources Act (30 U.S.C. 1401 et seq.), and the Ocean Thermal Energy Conversion Act of 1980 (42 U.S.C. 9101 et seq.), for the purpose of carrying out such functions and duties relating to nonliving marine resources.

(g)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean research functions and duties under law, $33,884,000 for fiscal year 1986 and $35,409,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to ocean research authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include undersea marine resources, air-sea interaction, and ocean and Great Lakes environmental research.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to ocean research moneys authorized under the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) for the purpose of carrying out such functions and duties relating to ocean research.

(h)(1) There are authorized to be appropriated to the Department to enable the Administration to carry out its ocean service functions and duties under law, $17,181,000 for fiscal year 1986 and $17,954,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to ocean services authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include coordination of interagency research in ocean dumping and marine pollution, and provision of tide and current data for the safe and efficient use of the oceans and Great Lakes by government, commerce, and the private sector.

(2) The authorization provided for under paragraph (1) of this subsection shall be in addition to moneys authorized under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441 et seq.), the Coastal Zone Management Act of 1972 (16 U.S.C. 1451 et seq.), and the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.), for the purpose of carrying out such functions and duties relating to ocean services.

(i) There are authorized to be appropriated to the Department to enable the Administration to carry out its mapping, charting, and geodesy functions and duties under law, $47,943,000 for fiscal year 1986 and $50,100,000 for fiscal year 1987. Moneys appropriated pursuant to this authorization shall be used to fund those functions and duties relating to mapping, charting, and geodesy authorized by the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.), and any other law involving such functions and duties. Such functions and duties include aeronautical and nautical mapping and charting activities, and geodetic data collection and analysis.

(j) There are authorized to be appropriated to the Department to enable the Administration to carry out its programs at current levels such sums as may be necessary to accommodate salary, pay, and other employee benefits authorized by law for fiscal years 1986 and 1987.

Subtitle F—Marine Protection, Research, and Sanctuaries Act Amendments

SEC. 6061. CONSOLIDATION OF REPORT.

Section 201 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1441) is amended by striking out all that follows "connecting waters" and inserting in lieu thereof a period.

SEC. 6062. MARINE RESEARCH REQUIREMENTS.

Section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442) is amended—

(1) by inserting "(1)" before "The Secretary" in subsection (a);

(2) by striking out "in consultation" in the first sentence of subsection (a) and inserting in lieu thereof "in close consultation";

(3) by adding at the end of subsection (a) the following new paragraph:

Pollution.

33 USC 1411.

Infra.

"(2) The Secretary of Commerce shall ensure that the program under this section complements, when appropriate, the activities undertaken by other Federal agencies pursuant to title I and section 203. That program shall include but not be limited to—

"(A) the development and assessment of scientific techniques to define and quantify the degradation of the marine environment;

"(B) the assessment of the capacity of the marine environment to receive materials without degradation;

"(C) continuing monitoring programs to assess the health of the marine environment, including but not limited to the monitoring of bottom oxygen concentrations, contaminant levels in biota, sediments, and the water column, diseases in fish and shellfish, and changes in types and abundance of indicator species;

"(D) the development of methodologies, techniques, and equipment for disposal of waste materials to minimize degradation of the marine environment."; and

(4) by striking out subsection (c) and redesignating subsections (d) and (e) as subsections (c) and (d), respectively.

SEC. 6063. REGIONAL MANAGEMENT PLANS.

Section 203 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1443) is amended by adding at the end thereof the following new subsections:

State and local governments.

Waste disposal.

"(c) The Administrator, in cooperation with the Secretary, the Secretary of Commerce, and other officials of appropriate Federal, State, and local agencies, shall assess the feasibility in coastal areas of regional management plans for the disposal of waste materials. Such plans should integrate where appropriate Federal, State, regional, and local waste disposal activities into a comprehensive regional disposal strategy. These plans should address, among other things—

"(1) the sources, quantities, and types of materials that require and will require disposal;

"(2) the environmental, economic, social, and human health factors (and the methods used to assess these factors) associated with disposal alternatives;

"(3) the improvements in production processes, methods of disposal, and recycling to reduce the adverse effects associated with such disposal alternatives;

"(4) the applicable laws and regulations governing waste disposal; and

"(5) improvements in permitting processes to reduce administrative burdens.

Report.
New York.

"(d) The Administrator, in cooperation with the Secretary of Commerce, shall submit to the Congress and the President, not later than one year after the date of enactment of this provision, a report on sewage sludge disposal in the New York City metropolitan region. The report shall—

"(1) consider the factors listed in subsection (c) as they relate to landfilling, incineration, ocean dumping, or any other feasible disposal or reuse/recycling option;

"(2) include an assessment of the cost of these alternatives; and

"(3) recommend such regulatory or legislative changes as may be necessary to reduce the adverse impacts associated with sewage sludge disposal.".

SEC. 6064. AUTHORIZATION OF APPROPRIATIONS.

33 USC 1445.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is redesignated as section 205; and such section as so redesignated is amended by striking out "and" immediately following "fiscal year 1981" and by striking out "1982." and inserting in lieu thereof the following: "1982, not to exceed $10,635,000 for fiscal year 1986, and not to exceed $11,114,000 for fiscal year 1987.".

SEC. 6065. CONSOLIDATION OF REPORTS.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is transferred to a point immediately following section 203 of such Act and redesignated as section 204; and such section as so transferred and redesignated is amended to read as follows:

"ANNUAL REPORT

33 USC 1444.

"SEC. 204. (a) In March of each year, the Secretary of Commerce shall report to the Congress on his activities under this title during the previous fiscal year. The report shall include—

Ante, p. 131.

"(1) the Secretary's findings made under section 201, including an evaluation of the short-term ecological effects and the social and economic factors involved with the dumping;

"(2) the results of activities undertaken pursuant to section 202;

33 USC 1411.
33 USC 1441.

"(3) with the concurrence of the Administrator and after consulting with officials of other appropriate Federal agencies, an identification of the short- and long-term research requirements associated with activities under title I, and a description of how Federal research under titles I and II will meet those requirements; and

"(4) activities of the Department of Commerce under section 5 of the Act of March 10, 1934 (48 Stat. 401; 16 U.S.C. 665).

Ante, p. 131.

"(b) In March of each year, the Administrator shall report to the Congress on his activities during the previous fiscal year under section 203.".

Subtitle G—National Ocean Pollution Planning Act Amendments

SEC. 6071. FINDINGS AND PURPOSES.

Research and development. Conservation.

(a) Section 2(a) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by adding at the end thereof the following new paragraphs:

"(6) Numerous Federal agencies have initiated and supported research projects to study, enhance, manage, preserve, protect, or restore the resources of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance.

"(7) Various research projects relating to the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, including those conducted at the college and university level and those conducted at the State and local governmental level, can be more effectively coordinated in order to obtain maximum benefits.".

(b) Section 2(b) of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701) is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) to provide for the effective coordination of research conducted to support the preservation and protection of the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance, and to encourage the use of such research in determinations that affect the environmental quality of the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance; and".

SEC. 6072. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

The National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701 et seq.) is further amended as follows:

(1) Section 3 is amended— 33 USC 1702.

(A) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively;

(B) by inserting after paragraph (2) the following new paragraph:

"(3) The term 'Board' means the National Ocean Pollution Policy Board established under section 3A(b)."; and *Infra.*

(C) by adding at the end thereof the following new paragraph:

"(8) The term 'Office' means the National Ocean Pollution Program Office established under section 3A(a).".

(2) The following new section is inserted immediately after section 3:

"SEC. 3A. NATIONAL OCEAN POLLUTION PROGRAM OFFICE AND NATIONAL OCEAN POLLUTION POLICY BOARD.

33 USC 1702a.

"(a) Program Office.—(1) The Administrator shall establish within the Administration the National Ocean Pollution Program Office.

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program established under section 4; 33 USC 1703.

"(B) be headed by a director who shall—

"(i) be appointed by the Administrator,

"(ii) serve as the Chair of the Board, and

"(iii) be the spokesperson for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups; and

"(D) review each department and agency budget request transmitted under section 4(d) and submit an analysis of the requests to the Board for its review.

The analysis described in subparagraph (D) shall include an analysis of how each departmental or agency budget request relates to the priorities and goals of the Plan established under section 4.

33 USC 1706. "(b) POLICY BOARD.—(1) The Administrator, with the cooperation of the Federal departments and agencies referred to in section 7, shall establish a National Ocean Pollution Policy Board consisting of representatives of those departments and agencies.

Report. "(2) The Board shall—

"(A) be responsible for coordinated planning and progress review for the program established under section 4;

"(B) review all department and agency budget requests transmitted to it under section 4(d) and submit a report to the Office of Management and Budget and to the Congress concerning those budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of ocean pollution data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such consultations.".

SEC. 6073. FEDERAL PLANNING TO INCLUDE GREAT LAKES.

Section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703) is amended—

(1) by inserting after "general research on marine ecosystems" in subsection (b)(2)(A) the following: ", including the Great Lakes, the Chesapeake Bay, Puget Sound, and other estuaries of national significance,";

(2) in subsection (b)(4)—

(A) by striking out "BUDGET REVIEW.—" and inserting in lieu thereof "PLAN REVIEW.—"; and

(B) by striking out "to coordinate the budget review process"; and

(3) by adding at the end thereof the following new subsection:

"(d) BUDGETING.—Each Federal agency and department included under the Plan shall prepare and submit to the Office of Management and Budget, the Office, and the Board on or before the date of submission of departmental requests for appropriations to the Office of Management and Budget, an annual request for appropriations to carry out the activities of that agency or department under the Plan during the subsequent fiscal year. The Office of Management and Budget shall review the request for appropriations as an integrated, coherent, and multiagency request, taking into account the review by the Board of those requests under section 3A(b).". *Ante*, p. 133

SEC. 6074. DISSEMINATION OF INFORMATION ON GREAT LAKES.

Section 8 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1707) is amended by adding "(a)" after "SEC. 8." and by adding at the end thereof the following new subsection:

"(b) The Administrator shall ensure that the findings and information regarding ocean pollution research activities associated with the Great Lakes identified pursuant to section 4(b) be disseminated in a timely manner and in useful forms to relevant departments of the Federal Government, State governments, and other persons with an interest in such information.". 33 USC 1703.

SEC. 6075. AUTHORIZATION OF APPROPRIATIONS.

Section 10 of the National Ocean Pollution Planning Act of 1978, as amended (33 U.S.C. 1709), is amended by striking out "and" after "1981," and by striking out "1982." and inserting in lieu thereof "1982, and not to exceed $3,571,000 for fiscal year 1986, and not to exceed $3,732,000 for fiscal year 1987.".

Subtitle H—Weather Modification

SEC. 6081. AUTHORIZATION OF APPROPRIATIONS.

Section 6 of the Act entitled "An Act to provide for the reporting of weather modification activities to the Federal Government", approved December 18, 1971 (85 Stat. 736; 15 U.S.C. 330e), is amended—

(1) by striking "and"; and

(2) by inserting immediately after "1981," the following: "$100,000 for the fiscal year ending September 30, 1986, $100,000 for the fiscal year ending September 30, 1987, $100,000 for the fiscal year ending September 30, 1988,".

SEC. 6082. OCEAN SATELLITE DATA. 33 USC 883j.

The Administrator of the National Oceanic and Atmospheric Administration (hereinafter referred to in this subtitle as the "Administration") shall take such actions, including the sponsorship of applied research, as may be necessary to assure the future availability and usefulness of ocean satellite data to the maritime community.

SEC. 6083. AWARDING OF CONTRACTS. 15 USC 1530.

Prohibition. Congress.

The Administration may not award any contract for the performance of any "commercial activity", as defined by paragraph 6.a. of the Office of Management and Budget Circular Memorandum A-76, which is performed by Administration employees until at least 30 calendar days after the Administrator of the Administration has presented, in writing, to the President of the Senate, the Speaker of the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries and the Committee on Science and Technology of the House of Representatives, a full and complete description of such proposed contract, together with supporting documentation. Such documentation shall include—

(1) a comparison of the cost of such activity as performed by employees of the Administration and the cost of such activity as performed under the proposed contract;

(2) a comparison of the services performed by employees of the Administration and the services to be performed under the proposed contract; and

(3) an assessment of the benefits to the Federal Government of proceeding with the proposed contract.

SEC. 6084. NATIONAL CLIMATE PROGRAM.

(a) Section 4 of the National Climate Program Act (15 U.S.C. 2903) is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) The term 'Board' means the Climate Program Policy Board.".

(b) Section 5(c) of the National Climate Program Act (15 U.S.C. 2904(c)) is amended—

(1) by inserting "(1)" immediately before "The Secretary";

(2) by designating the third sentence as paragraph (4); and

(3) by striking the second sentence and inserting in lieu thereof the following new paragraphs:

"(2) The Office shall—

"(A) serve as the lead entity responsible for administering the program;

"(B) be headed by a Director who shall represent the Climate Program Policy Board and shall be spokesperson for the program;

"(C) serve as the staff for the Board and its supporting committees and working groups;

"(D) review each agency budget request transmitted under subsection (g)(1) and submit an analysis of the requests to the Board for its review;

"(E) be responsible for coordinating interagency participation in international climate-related activities; and

"(F) work with the National Academy of Sciences and other private, academic, State, and local groups in preparing and implementing the 5-year plan (described in subsection (d)(9)) and the program.

The analysis described in subparagraph (D) shall include an analysis of how each agency's budget request relates to the priorities and goals of the program established pursuant to this Act.

Contracts.
Grants.

"(3) The Secretary may provide, through the Office, financial assistance, in the form of contracts or grants or cooperative agreements, for climate-related activities which are needed to meet the goals and priorities of the program set forth in the 5-year plan pursuant to subsection (d)(9), if such goals and priorities are not being adequately addressed by any Federal department, agency, or instrumentality.".

(c) Section 5(d) of the National Climate Program Act (15 U.S.C. 2904(d)) is amended—

State and local governments.

(1) by striking the semicolon at the end of paragraph (7) and inserting in lieu thereof the following: ". Such mechanisms may provide, among others, for the following State and regional services and functions: (A) studies relating to and analyses of climatic effects on agricultural production, water resources, energy needs, and other critical sectors of the economy; (B) atmospheric data collection and monitoring on a statewide and

regional basis; (C) advice to regional, State, and local government agencies regarding climate-related issues; (D) information to users within the State regarding climate and climatic effects; and (E) information to the Secretary regarding the needs of persons within the States for climate-related services, information, and data. The Secretary may make annual grants to any State or group of States, which grants shall be made available to public or private educational institutions, to State agencies, and to other persons or institutions qualified to conduct climate-related studies or provide climate-related services;";

Grants.
State and local governments.

(2) by striking "biennially" in paragraph (9) and inserting in lieu thereof "at least once every four years"; and

(3) by striking "under section 6" in paragraph (9) and inserting in lieu thereof "described in paragraph (7)".

(d) Section 5(e) of the National Climate Program Act (15 U.S.C. 2904(e)) is amended to read as follows:

"(e) CLIMATE PROGRAM POLICY BOARD.—(1) The Secretary shall establish and maintain an interagency Climate Program Policy Board, consisting of representatives of the Federal agencies specified in subsection (b)(2) and any other agency which the Secretary determines should participate in the Program.

"(2) The Board shall—

Report.

"(A) be responsible for coordinated planning and progress review for the Program;

"(B) review all agency and department budget requests related to climate transmitted under subsection (g)(1) and submit a report to the Office of Management and Budget concerning such budget requests;

"(C) establish and maintain such interagency groups as the Board determines to be necessary to carry out its activities; and

"(D) consult with and seek the advice of users and producers of climate data, information, and services to guide the Board's efforts, keeping the Director and the Congress advised of such contacts.

"(3) The Board biennially shall select a Chair from among its members. A Board member who is a representative of an agency may not serve as Chair of the Board for a term if an individual who represented that same agency on the Board served as the Board's Chair for the previous term.".

(e) Section 5(f)(2) of the National Climate Program Act (15 U.S.C. 2904(f)(2)) is amended by inserting "with the Office" immediately after "cooperate".

(f) The first sentence of section 5(g)(1) of the National Climate Program Act (15 U.S.C. 2904(g)(1)) is amended by inserting immediately before the period the following: "and shall transmit a copy of such request to the National Climate Program Office".

(g) Section 6 of the National Climate Program Act (15 U.S.C. 2905) is repealed.

Repeal.

(h) There are authorized to be appropriated to the Administration, for purposes of carrying out the provisions of the amendments made by this section, $1,897,000 for fiscal year 1986 and $1,982,000 for fiscal year 1987. Of such funds, at least 25 percent shall be made available for intergovernmental climate-related activities described in section 5(d)(7) of the National Climate Program Act (15 U.S.C. 2904(d)(7)), and at least 20 percent shall be made available during each fiscal year for experimental climate forecast centers described in section 5(d)(8) of the National Climate Program Act (15 U.S.C. 2904(d)(8)).

SEC. 6085. COOPERATIVE AGREEMENTS FOR MAPPING AND CHARTING SURVEYS.

Section 5 of the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (61 Stat. 788, 33 U.S.C. 883e) is amended—

(1) by inserting "(1)" after "SEC. 5.";

(2) by inserting "any Federal agency," after "or subdivision thereof,"; and

(3) by adding at the end thereof the following:

"(2) The Secretary of Commerce is authorized to establish the terms of any cooperative agreement entered into under this section, including the amount of funds to be received, and may contribute that portion of the costs incurred by the National Oceanic and Atmospheric Administration, including shiptime and personnel expenses, which the Secretary determines represents the amount of benefits derived by the Administration from the cooperative agreement.".

Subtitle I—Maritime Authorizations

SEC. 6091. MARITIME PROGRAMS.

(a) Funds are authorized to be appropriated without fiscal year limitation as the appropriation Act may provide for the use of the Department of Transportation for fiscal year 1986 as follows:

(1) for payment of obligations incurred for operating-differential subsidy, not to exceed $335,084,000;

(2) for expenses necessary for research and development activities, not to exceed $9,900,000; and

(3) for expenses necessary for operations and training activities, not to exceed $71,967,000, including not to exceed—

(A) $34,847,000 for maritime education and training expenses, including not to exceed $19,633,000 for maritime training at the Merchant Marine Academy at Kings Point, New York, $10,915,000 for financial assistance to State maritime academies, $3,000,000 for fuel oil assistance to State maritime academy training vessels, and $1,299,000 for expenses necessary for additional training;

(B) $9,277,000 for national security support capabilities, including not to exceed $7,932,000 for reserve fleet expenses, and $1,345,000 for emergency planning/operations; and

(C) $27,843,000 for other operations and training expenses.

(b) Funds are authorized to be appropriated for the use of the Federal Maritime Commission, in the amount of $11,940,000 for fiscal year 1986.

Public Law 99-359
99th Congress

An Act

July 8, 1986
[S. 2180]

To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17(f) of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216(f)) is amended—

(1) by striking "is" and inserting in lieu thereof "are"; and

(2) by inserting immediately before the period the following: "and $18,300,000 for the fiscal year ending September 30, 1987".

Daylight saving time.
Energy.
15 USC 260a note.

SEC. 2. (a) The Congress finds—

(1) that various studies of governmental and nongovernmental agencies indicate that daylight saving time over an expanded period would produce a significant energy savings in electrical power consumption;

(2) that daylight saving time may yield energy savings in other areas besides electrical power consumption;

(3) that daylight saving time over an expanded period could serve as an incentive for further energy conservation by individuals, companies, and the various governmental entities at all levels of government, and that such energy conservation efforts could lead to greatly expanded energy savings; and

(4) that the use of daylight saving time over an expanded period could have other beneficial effects on the public interest, including the reduction of crime, improved traffic safety, more daylight outdoor playtime for the children and youth of our Nation, greater utilization of parks and recreation areas, expanded economic opportunity through extension of daylight hours to peak shopping hours and through extension of domestic office hours to periods of greater overlap with the European Economic Community.

15 USC 260a.

(b) Section 3(a) of the Uniform Time Act of 1966 (15 U.S.C. 260a(a)) is amended by striking "last Sunday of April" and inserting in lieu thereof "first Sunday of April".

State and local governments.
15 USC 260a note.

(c) Any law in effect on the date of the enactment of this Act—

(1) adopted pursuant to section 3(a)(2) of the Uniform Time Act of 1966 by a State with parts thereof in more than one time zone, or

(2) adopted pursuant to section 3(a)(1) of such Act by a State that lies entirely within one time zone,

shall be held and considered to remain in effect as the exercise by that State of the exemption permitted by such Act unless that State, by law, provides that such exemption shall not apply.

Communications and telecommunications.
15 USC 260a note.

(d)(1) Notwithstanding any other law or any regulation issued under any such law, the Federal Communications Commission shall, consistent with any existing treaty or other agreement, make such adjustment by general rules, or by interim action pending such general rules, with respect to hours of operation of daytime standard

amplitude modulation broadcast stations, as may be consistent with the public interest, including the public's interest in receiving interference-free service.

(2) Such general rules, or interim action, may include variances with respect to operating power and other technical operating characteristics.

(3) Subsequent to the adoption of such general rules, they may be varied with respect to particular stations and areas because of the exigencies in each case.

(e) This section shall take effect 60 days after the date of enactment of this Act, except that if such effective date occurs in any calendar year after March 1, this section shall take effect on the first day of the following calendar year.

Effective date.
15 USC 260a note.

Approved July 8, 1986.

LEGISLATIVE HISTORY—S. 2180 (H.R. 4252):

HOUSE REPORT No. 99-623 accompanying H.R. 4252 (Comm. on Science and Technology).
SENATE REPORT No. 99-267 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 132 (1986):
May 15, 19, 20, considered and passed Senate.
June 23, 24, H.R. 4252 considered and passed House; proceedings vacated and S. 2180 passed in lieu.

Public Law 99-382
99th Congress

An Act

To amend the Stevenson-Wydler Technology Innovation Act of 1980 for the purpose of improving the availability of Japanese science and engineering literature in the United States, and for other purposes.

Aug. 14, 1986
[S. 1073]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Japanese Technical Literature Act of 1986".

Japanese Technical Literature Act of 1986.
Science and technology.
15 USC 3701 note.

SEC. 2. Section 5 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c) the following new subsection:

"(d) JAPANESE TECHNICAL LITERATURE.—(1) In addition to the duties specified in subsection (c), the Secretary shall establish and, through the National Technical Information Service and such other offices within the Department of Commerce as the Secretary considers appropriate, maintain a program (including an office in Japan) which shall, on a continuing basis—

"(A) monitor Japanese technical activities and developments;

"(B) consult with businesses, professional societies, and libraries in the United States regarding their needs for information on Japanese developments in technology and engineering;

"(C) acquire and translate selected Japanese technical reports and documents that may be of value to agencies and departments of the Federal Government, and to businesses and researchers in the United States; and

"(D) coordinate with other agencies and departments of the Federal Government to identify significant gaps and avoid duplication in efforts by the Federal Government to acquire, translate, index, and disseminate Japanese technical information.

Activities undertaken pursuant to subparagraph (C) of this paragraph shall only be performed on a cost-reimbursable basis. Translations referred to in such subparagraph shall be performed only to the extent that they are not otherwise available from sources within the private sector in the United States.

Reports.
Contracts.

"(2) Beginning in 1986, the Secretary shall prepare annual reports regarding important Japanese scientific discoveries and technical innovations in such areas as computers, semiconductors, biotechnology, and robotics and manufacturing. In preparing such reports, the Secretary shall consult with professional societies and businesses in the United States. The Secretary may, to the extent provided in advance by appropriation Acts, contract with private organizations to acquire and translate Japanese scientific and technical information relevant to the preparation of such reports.

"(3) The Secretary also shall encourage professional societies and private businesses in the United States to increase their efforts to acquire, screen, translate, and disseminate Japanese technical literature.

Public information.

"(4) In addition, the Secretary shall compile, publish, and disseminate an annual directory which lists—

"(A) all programs and services in the United States that collect, abstract, translate, and distribute Japanese scientific and technical information; and

"(B) all translations of Japanese technical documents performed by agencies and departments of the Federal Government in the preceding 12 months that are available to the public.

Reports.

"(5) The Secretary shall transmit to the Congress, within 1 year after the date of enactment of the Japanese Technical Literature Act of 1986, a report on the activities of the Federal Government to collect, abstract, translate, and distribute declassified Japanese scientific and technical information.".

Appropriations authorization.

SEC. 3. There is authorized to be appropriated for fiscal year 1987 the sum of $1,000,000 to carry out the purpose of this Act.

Approved August 14, 1986.

LEGISLATIVE HISTORY—S. 1073:

HOUSE REPORTS: No. 99-618 (Comm. on Science and Technology).
SENATE REPORTS: No. 99-175 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Nov. 23, considered and passed Senate.
Vol. 132 (1986): June 23, considered and passed House, amended.
Aug. 1, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Aug. 14, Presidential statement.

Public Law 99-383
99th Congress

An Act

To authorize appropriations to the National Science Foundation for the fiscal year 1987, and for other purposes.

Aug. 21, 1986
[H.R. 4184]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Science Foundation Authorization Act for Fiscal Year 1987".

National Science Foundation Authorization Act for Fiscal Year 1987.
42 USC 1861 note.

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) There are authorized to be appropriated to the National Science Foundation, for fiscal year 1987, the sums set forth in the following categories:

(1) Mathematical and Physical Sciences, $489,870,000.
(2) Engineering, $172,470,000.
(3) Biological, Behavioral, and Social Sciences, $270,500,000.
(4) Geosciences, $298,150,000.
(5) Scientific, Technological, and International Affairs, $47,030,000.
(6) Computer and Information Science and Engineering, $122,980,000.
(7) Program Development and Management, $78,000,000.
(8) United States Antarctic Program, $117,000,000.
(9) Science and Engineering Education, $89,000,000.

(b) Notwithstanding any other provision of this Act, from the amount authorized under subsection (a)—

(1) not less than $33,430,000 is authorized only for purposes of the Social and Economic Sciences Division;
(2) not less than $49,870,000 is authorized only for purposes of the Behavioral and Neural Sciences Division;
(3) not less than $89,060,000 is authorized only for the purposes of the Astronomical Sciences Division; and
(4) not less than $11,500,000 is authorized only for the purposes of the College Science Instrumentation Program.

AVAILABILITY

SEC. 3. (a) Appropriations made under authority provided in sections 2 and 5 shall remain available for obligation for periods specified in the Acts making the appropriations.

(b) To the extent that the total amount appropriated to carry out program activities specified in this Act is less than the total amount authorized to be appropriated for such activities under this Act, all such authorized amounts for such activities or their subactivities shall be reduced proportionally.

OFFICIAL EXPENSES

SEC. 4. From appropriations made under authorizations provided in this Act, not more than $5,000 for fiscal year 1987 may be used for official consultation, representation, or other extraordinary expenses at the discretion of the Director of the National Science Foundation. The determination of the Director will be final and conclusive upon the accounting officers of the Government.

FOREIGN CURRENCY AUTHORIZATION

SEC. 5. In addition to the sums authorized by section 2, not more than $700,000 for fiscal year 1987 are authorized to be appropriated for expenses of the National Science Foundation incurred outside the United States, to be drawn from foreign currencies that the Department of the Treasury determines to be excess to the normal requirements of the United States.

TRANSFERS AUTHORIZED

SEC. 6. (a) Funds may be transferred among the categories listed in section 2(a), so long as the net funds transferred to or from any category do not exceed 10 percent of the amount authorized for that category in section 2.

(b) The Director of the National Science Foundation may propose transfers to or from any category exceeding 10 percent of the amount authorized for that category in section 2. An explanation of any such proposed transfer must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate, and the Committee on Science and Technology of the House of Representatives. The proposed transfer may be made only when 30 calendar days have passed after submission of the written explanation.

MISCELLANEOUS AMENDMENTS

SEC. 7. (a) Section 3(a)(6) of the National Science Foundation Act of 1950 (42 U.S.C. 1862(a)(6)) is amended to read as follows:

"(6) to provide a central clearinghouse for the collection, interpretation, and analysis of data on scientific and engineering resources and to provide a source of information for policy formulation by other agencies of the Federal Government; and".

(b)(1) Section 6 of the National Science Foundation Act of 1950 (42 U.S.C. 1864a) is amended—

(A) by striking out "(a)" after the section designation; and

(B) by striking out subsection (b).

(2) Section 5316 of title 5, United States Code, is amended by striking out "Assistant Directors, National Science Foundation (4).".

(c) Section 10 of the National Science Foundation Act of 1950 (42 U.S.C. 1869) is amended by striking out ", within the limits of funds made available specifically for such purpose pursuant to section 16,".

(d) Section 11 of the National Science Foundation Act of 1950 (42 U.S.C. 1870) is amended—

(1) by striking out "and" at the end of paragraph (i);

(2) by striking out the period at the end of paragraph (j) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following:

"(k) during the 5-year period beginning on the date of the enactment of the National Science Foundation Authorization Act for Fiscal Year 1987, to indemnify grantees, contractors, and subcontractors associated with the Ocean Drilling Program under the provisions of section 2354 of title 10, United States Code, with all approvals and certifications required by such indemnification made by the Director.".

TASK FORCE ON WOMEN, MINORITIES, AND THE HANDICAPPED IN SCIENCE AND TECHNOLOGY

Government organization and employees. State and local governments. 42 USC 1885a note.

SEC. 8. (a) It is the purpose of this section to establish a task force on women, minorities, and the handicapped in science and technology to—

(1) examine the current status of women, minorities, and the handicapped in science and engineering positions in the Federal Government and in federally assisted research programs;

(2) coordinate existing Federal programs designed to promote the employment of women, minorities, and the handicapped in such positions;

(3) suggest cooperative interagency programs for promoting such employment;

(4) identify exemplary State, local, or private sector programs designed to promote such employment; and

(5) develop a long-range plan to advance opportunities for women, minorities, and the handicapped in Federal scientific and technical positions in federally assisted research, and to coordinate the activities of participating agencies with the Committee on Equal Opportunities in Science and Engineering established by section 36 of the National Science Foundation Authorization and Science and Technology Equal Opportunities Act (42 U.S.C. 1885c), after the termination of the task force established by this section.

(b) For purposes of this section, the term "participating agency" means—

(1) the National Science Foundation;
(2) the Department of Health and Human Services;
(3) the National Aeronautics and Space Administration;
(4) the Environmental Protection Agency;
(5) the Department of Agriculture;
(6) the Department of Defense;
(7) the Department of Education;
(8) the Department of Energy;
(9) the Department of Commerce; and
(10) the Department of the Interior.

(c)(1) The task force on women, minorities, and the handicapped in science and technology shall be composed of individuals appointed by participating agencies pursuant to this subsection.

(2) The head of each participating agency shall appoint two individuals to serve as members of the task force. If an appointed member is unable to serve for the duration of the task force, the head of the participating agency who appointed that member shall appoint another individual to fill the vacancy.

(3) Task force members may be appointed from private business, academia, professional associations, or nonprofit foundations.

Reports.

(d) The task force shall prepare and submit a report on its findings and recommendations to the President, the Congress, and the head of each participating agency not later than December 31, 1989.

(e) The Office of Science and Technology Policy shall call the first meeting of the task force not later than 90 days after the date of enactment of this Act, shall ensure that each participating agency has appointed two members, and shall assist the task force to meet its objectives.

(f)(1) Members of the task force not otherwise employed by the Federal Government shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the task force.

(2) The Director of the National Science Foundation shall make provision for administrative support of the task force, and may enter into agreements with the heads of other participating agencies to facilitate the work of the task force.

(g) The task force shall terminate on January 31, 1990.

GREENHOUSE EFFECT REPORT

President of U.S.

SEC. 9. The President shall, at the earliest practical date (but not later than August 1, 1987), submit to the Congress a report on any action taken or proposed to be taken by the Federal Government with respect to the establishment of an International Year of the Greenhouse Effect to occur in calendar year 1991. Such report shall include descriptions of possible international missions and related research and educational activities, and other such activities as the President may consider appropriate.

COMPUTER NETWORK STUDY

Research and development. 42 USC 6614 note.

SEC. 10. (a) The Office of Science and Technology Policy (hereinafter referred to as the "Office") shall undertake a study of critical problems and current and future options regarding communications networks for research computers, including supercomputers, at universities and Federal research facilities in the United States. The study shall include an analysis of—

(1) the networking needs of the Nation's academic and Federal research computer programs, including supercomputer programs, over the period which is fifteen years after the date of enactment of this Act, including requirements in terms of volume of data, reliability of transmission, software compatibility, graphics capability, and transmission security;

(2) the benefits and opportunities that an improved computer network would offer for electronic mail, file transfer, and remote access and communications for universities and Federal research facilities in the United States; and

(3) the networking options available for linking academic and other federally supported research computers, including supercomputers, with a particular emphasis on the advantages and disadvantages, if any, of fiber optic systems.

Reports.

(b) The Office shall submit to the Congress—

(1) within one year after the date of enactment of this Act, a report on findings from the study undertaken pursuant to subsection (a) with respect to needs and options regarding communications networks for university and Federal research supercomputers within the United States; and

(2) within two years after the date of enactment of this Act, a report on findings from the study undertaken pursuant to subsection (a) with respect to needs and options regarding communications networks for all research computers at universities and Federal research facilities in the United States.

REPEAL

SEC. 11. Title IX of the National Defense Education Act of 1959 (42 U.S.C. 1876 et seq.) is repealed.

Approved August 21, 1986.

LEGISLATIVE HISTORY—H.R. 4184 (S. 2184):

HOUSE REPORTS: No. 99-619 (Comm. on Science and Technology).
SENATE REPORTS: No. 99-325 (Comm. on Labor and Human Resources) and No. 99-338 (Comm. on Commerce, Science, and Transportation), both accompanying S. 2184.
CONGRESSIONAL RECORD, Vol. 132 (1986):
June 26, considered and passed House.
Aug. 1, considered and passed Senate, amended, in lieu of S. 2184.
Aug. 6, House concurred in Senate amendment.

Public Law 99-443
99th Congress

An Act

Oct. 6, 1986
[H.R. 4260]

To provide the Small Business Administration continuing authority to administer a program for small innovative firms, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Research and development.

SECTION 1. Section 9(e)(1) of the Small Business Act (15 U.S.C. 638(e)(1)) is amended by inserting immediately after "facilities," the following: "except that for the Department of Defense it shall not include amounts obligated solely for operational systems development, and".

15 USC 638 and note.

SEC. 2. Section 5 of Public Law 97-219 is amended by striking "1988" and inserting "1993".

15 USC 638 note.

SEC. 3. Section 6 of Public Law 97-219 is amended to read as follows:

Reports.

"SEC. 6. (a) The Comptroller General, no later than December 31, 1988, shall transmit a report to the appropriate committees of the House of Representatives and of the Senate evaluating the effectiveness to date of phase one and phase two of the SBIR Program as set out in section 9(e)(4) of the Small Business Act. Such report shall examine the quality of the research supported by the SBIR Program compared to that traditionally supported by the affected agencies, and the extent to which the goals of the SBIR Program are being met. Such report shall also include the judgments of the heads of departments and agencies as to the effect of this Act on research programs.

15 USC 638.

"(b) The Comptroller General, no later than December 31, 1991, shall transmit to such committees an update of the report mandated under subsection (a). Such report, in addition, shall include an evaluation of phase three of the SBIR Program including a discussion of the aggregate commercial trends for products which are then currently in or have completed phase three of the program.".

Approved October 6, 1986.

LEGISLATIVE HISTORY—H.R. 4260:

HOUSE REPORTS: No. 99-646 (Comm. on Small Business), Pt. 2 (Permanent Select Comm. on Intelligence) Pt. 3 (Comm. on Science and Technology), and Pt. 4 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, 13, considered and passed House.
Sept. 18, considered and passed Senate.

Public Law 99-499
99th Congress

An Act

To extend and amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, and for other purposes.

Oct. 17, 1986
[H.R. 2005]

Hazardous materials.
Environmental protection.
42 USC 9601 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Superfund Amendments and Reauthorization Act of 1986".

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*Note: The printed text of Public Law 99-499 is a reprint of the hand enrollment, signed by the President on October 17, 1986.

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Sec. 405. Authorizations.

42 USC 9601 note.

SEC. 2. CERCLA AND ADMINISTRATOR.

As used in this Act—

(1) CERCLA.—The term "CERCLA" means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

(2) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

42 USC 9662.

SEC. 3. LIMITATION ON CONTRACT AND BORROWING AUTHORITY.

Any authority provided by this Act, including any amendment made by this Act, to enter into contracts to obligate the United States or to incur indebtedness for the repayment of which the United States is liable shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

42 USC 9601 note.

SEC. 4. EFFECTIVE DATE.

Except as otherwise specified in section 121(b) of this Act or in any other provision of titles I, II, III, and IV of this Act, the amendments made by titles I through IV of this Act shall take effect on the enactment of this Act.

TITLE II—MISCELLANEOUS PROVISIONS

SEC. 201. POST-CLOSURE LIABILITY PROGRAM STUDY, REPORT TO CONGRESS, AND SUSPENSION OF LIABILITY TRANSFERS.

Subsection (k) of section 107 of CERCLA is amended by adding at the end the following new paragraphs: 42 USC 9607.

"(5) SUSPENSION OF LIABILITY TRANSFER.—Notwithstanding paragraphs (1), (2), (3), and (4) of this subsection and subsection (j) of section 111 of this Act, no liability shall be transferred to or assumed by the Post-Closure Liability Trust Fund established by section 232 of this Act prior to completion of the study 42 USC 9641. required under paragraph (6) of this subsection, transmission of a report of such study to both Houses of Congress, and authorization of such a transfer or assumption by Act of Congress following receipt of such study and report.

"(6) STUDY OF OPTIONS FOR POST-CLOSURE PROGRAM.—

"(A) STUDY.—The Comptroller General shall conduct a study of options for a program for the management of the liabilities associated with hazardous waste treatment, storage, and disposal sites after their closure which complements the policies set forth in the Hazardous and Solid Waste Amendments of 1984 and assures the protection of 42 USC 6901 note. human health and the environment.

"(B) PROGRAM ELEMENTS.—The program referred to in subparagraph (A) shall be designed to assure each of the following:

"(i) Incentives are created and maintained for the safe management and disposal of hazardous wastes so as to assure protection of human health and the environment.

"(ii) Members of the public will have reasonable confidence that hazardous wastes will be managed and disposed of safely and that resources will be available to address any problems that may arise and to cover costs of long-term monitoring, care, and maintenance of such sites.

"(iii) Persons who are or seek to become owners and operators of hazardous waste disposal facilities will be able to manage their potential future liabilities and to attract the investment capital necessary to build, operate, and close such facilities in a manner which assures protection of human health and the environment.

"(C) ASSESSMENTS.—The study under this paragraph shall include assessments of treatment, storage, and disposal facilities which have been or are likely to be issued a permit under section 3005 of the Solid Waste Disposal Act and the likelihood of future insolvency on the part of owners and operators of such facilities. Separate assessments shall be made for different classes of facilities and for different classes of land disposal facilities and shall include but not be limited to—

42 USC 6925.

"(i) the current and future financial capabilities of facility owners and operators;

"(ii) the current and future costs associated with facilities, including the costs of routine monitoring and maintenance, compliance monitoring, corrective action, natural resource damages, and liability for damages to third parties; and

"(iii) the availability of mechanisms by which owners and operators of such facilities can assure that current and future costs, including post-closure costs, will be financed.

"(D) PROCEDURES.—In carrying out the responsibilities of this paragraph, the Comptroller General shall consult with the Administrator, the Secretary of Commerce, the Secretary of the Treasury, and the heads of other appropriate Federal agencies.

"(E) CONSIDERATION OF OPTIONS.—In conducting the study under this paragraph, the Comptroller General shall consider various mechanisms and combinations of mechanisms to complement the policies set forth in the Hazardous and Solid Waste Amendments of 1984 to serve the purposes set forth in subparagraph (B) and to assure that the current and future costs associated with hazardous waste facilities, including post-closure costs, will be adequately financed and, to the greatest extent possible, borne by the owners and operators of such facilities. Mechanisms to be considered include, but are not limited to—

42 USC 6901 note.

"(i) revisions to closure, post-closure, and financial responsibility requirements under subtitles C and I of the Solid Waste Disposal Act;

42 USC 6921, 6991.

"(ii) voluntary risk pooling by owners and operators;

"(iii) legislation to require risk pooling by owners and operators;

"(iv) modification of the Post-Closure Liability Trust Fund previously established by section 232 of this Act, and the conditions for transfer of liability under this subsection, including limiting the transfer of some or all liability under this subsection only in the case of insolvency of owners and operators;

42 USC 9641.

"(v) private insurance;

"(vi) insurance provided by the Federal Government;

"(vii) coinsurance, reinsurance, or pooled-risk insurance, whether provided by the private sector or provided or assisted by the Federal Government; and

"(viii) creation of a new program to be administered by a new or existing Federal agency or by a federally chartered corporation.

"(F) RECOMMENDATIONS.—The Comptroller General shall consider options for funding any program under this section and shall, to the extent necessary, make recommendations to the appropriate committees of Congress for additional authority to implement such program.".

SEC. 202. HAZARDOUS MATERIALS TRANSPORTATION.

42 USC 9656.

(a) REGULATION REQUIREMENT.—Section 306(a) of CERCLA is amended (1) by striking out "within ninety days after the date of enactment of this Act" and inserting in lieu thereof "within 30 days after the enactment of the Superfund Amendments and Reauthorization Act of 1986" and (2) by inserting "and regulated" before "as a hazardous material".

(b) CONFORMING AMENDMENT.—Section 306(b) of CERCLA is amended by inserting "and regulation" after "prior to the effective date of the listing". 42 USC 9656.

SEC. 203. STATE PROCEDURAL REFORM.

(a) IN GENERAL.—Title III of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 309. ACTIONS UNDER STATE LAW FOR DAMAGES FROM EXPOSURE TO HAZARDOUS SUBSTANCES.

42 USC 9658.

"(a) STATE STATUTES OF LIMITATIONS FOR HAZARDOUS SUBSTANCE CASES.—

"(1) EXCEPTION TO STATE STATUTES.—In the case of any action brought under State law for personal injury, or property damages, which are caused or contributed to by exposure to any hazardous substance, or pollutant or contaminant, released into the environment from a facility, if the applicable limitations period for such action (as specified in the State statute of limitations or under common law) provides a commencement date which is earlier than the federally required commencement date, such period shall commence at the federally required commencement date in lieu of the date specified in such State statute.

"(2) STATE LAW GENERALLY APPLICABLE.—Except as provided in paragraph (1), the statute of limitations established under State law shall apply in all actions brought under State law for personal injury, or property damages, which are caused or contributed to by exposure to any hazardous substance, or pollutant or contaminant, released into the environment from a facility.

"(3) ACTIONS UNDER SECTION 107.—Nothing in this section shall apply with respect to any cause of action brought under section 107 of this Act. 42 USC 9607.

"(b) DEFINITIONS.—As used in this section—

"(1) TITLE I TERMS.—The terms used in this section shall have the same meaning as when used in title I of this Act. 42 USC 9601.

"(2) APPLICABLE LIMITATIONS PERIOD.—The term 'applicable limitations period' means the period specified in a statute of limitations during which a civil action referred to in subsection (a)(1) may be brought.

"(3) COMMENCEMENT DATE.—The term 'commencement date' means the date specified in a statute of limitations as the beginning of the applicable limitations period.

"(4) FEDERALLY REQUIRED COMMENCEMENT DATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'federally required commencement date' means the date the plaintiff knew (or reasonably should have known) that the personal injury or property damages referred to in subsection (a)(1) were caused or contributed to by the hazardous substance or pollutant or contaminant concerned.

"(B) SPECIAL RULES.—In the case of a minor or incompetent plaintiff, the term 'federally required commencement date' means the later of the date referred to in subparagraph (A) or the following:

"(i) In the case of a minor, the date on which the minor reaches the age of majority, as determined by State law, or has a legal representative appointed.

"(ii) In the case of an incompetent individual, the date on which such individual becomes competent or has had a legal representative appointed.".

42 USC 9658 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) of this section shall take effect with respect to actions brought after December 11, 1980.

42 USC 9631.

SEC. 204. CONFORMING AMENDMENT TO FUNDING PROVISIONS.

Post, p. 1774.

(a) HAZARDOUS SUBSTANCES SUPERFUND.—Section 221(a) of CERCLA is amended by striking out "Hazardous Substance Response Trust Fund" and inserting in lieu thereof "Hazardous Substances Superfund".

Post, p. 1774.

(b) CROSS REFERENCE TO FUNDING PROVISIONS.—Section 221(c) of CERCLA is amended to read as follows:

"(c) EXPENDITURES FROM TRUST FUND.—Amounts in the Hazardous Substances Superfund established under subchapter A of chapter 98 of the Internal Revenue Code of 1954 shall be available for expenditure only as provided in section 111 of this Act.".

26 USC 9501.
Ante, p. 1642.

SEC. 205. CLEANUP OF PETROLEUM FROM LEAKING UNDERGROUND STORAGE TANKS.

42 USC 6991.

(a) DEFINITION OF PETROLEUM.—Section 9001(2)(B) of the Solid Waste Disposal Act is amended by striking out all that follows "petroleum" and inserting in lieu thereof a period. Section 9001 of such Act is amended by adding at the end thereof the following:

"(8) The term 'petroleum' means petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute).".

42 USC 6991a.

(b) STATE INVENTORIES.—Section 9002 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

"(c) STATE INVENTORIES.—Each State shall make 2 separate inventories of all underground storage tanks in such State containing regulated substances. One inventory shall be made with respect to petroleum and one with respect to other regulated substances. In making such inventories, the State shall utilize and aggregate the data in the notification forms submitted pursuant to subsections (a) and (b) of this section. Each State shall submit such aggregated data to the Administrator not later than 270 days after the enactment of the Superfund Amendments and Reauthorization Act of 1986.".

(c) FINANCIAL RESPONSIBILITY.—

(1) REQUIREMENTS.—Section 9003(c) of the Solid Waste Disposal Act is amended by striking "and" at the end of paragraph (4), striking the period at the end of paragraph (5) and substituting "; and" and by adding the following new paragraph at the end thereof:

42 USC 6991b.

"(6) requirements for maintaining evidence of financial responsibility for taking corrective action and compensating third parties for bodily injury and property damage caused by sudden and nonsudden accidental releases arising from operating an underground storage tank.".

(2) CONFORMING AMENDMENT.—Section 9003(d) of such Act is amended by striking out paragraph (1) and renumbering paragraphs (2) through (5) as paragraphs (1) through (4), respectively.

(3) OTHER METHODS.—Section 9003(d)(1) of such Act (as redesignated by paragraph (2) of this subsection) is amended by striking out "or" after "credit," and by striking out the period at the end thereof and inserting in lieu thereof the following: "or any other method satisfactory to the Administrator.".

(4) Section 9003(d) of such Act is further amended by adding at the end thereof the following new paragraph:

Regulations.

"(5)(A) The Administrator, in promulgating financial responsibility regulations under this section, may establish an amount of coverage for particular classes or categories of underground storage tanks containing petroleum which shall satisfy such regulations and which shall not be less than $1,000,000 for each occurrence with an appropriate aggregate requirement.

"(B) The Administrator may set amounts lower than the amounts required by subparagraph (A) of this paragraph for underground storage tanks containing petroleum which are at facilities not engaged in petroleum production, refining, or marketing and which are not used to handle substantial quantities of petroleum.

"(C) In establishing classes and categories for purposes of this paragraph, the Administrator may consider the following factors:

"(i) The size, type, location, storage, and handling capacity of underground storage tanks in the class or category and the volume of petroleum handled by such tanks.

"(ii) The likelihood of release and the potential extent of damage from any release from underground storage tanks in the class or category.

Small business.
Marketing.

"(iii) The economic impact of the limits on the owners and operators of each such class or category, particularly relating to the small business segment of the petroleum marketing industry.

"(iv) The availability of methods of financial responsibility in amounts greater than the amount established by this paragraph.

"(v) Such other factors as the Administrator deems pertinent.

"(D) The Administrator may suspend enforcement of the financial responsibility requirements for a particular class or category of underground storage tanks or in a particular State, if the Administrator makes a determination that methods of financial responsibility satisfying the requirements of this subsection are not generally available for underground storage tanks in that class or category, and—

"(i) steps are being taken to form a risk retention group for such class of tanks; or

"(ii) such State is taking steps to establish a fund pursuant to section 9004(c)(1) of this Act to be submitted as evidence of financial responsibility. 42 USC 6991c.

A suspension by the Administrator pursuant to this paragraph shall extend for a period not to exceed 180 days. A determination to suspend may be made with respect to the same class or category or for the same State at the end of such period, but only if substantial progress has been made in establishing a risk retention group, or the owners or operators in the class or category demonstrate, and the Administrator finds, that the formation of such a group is not possible and that the State is unable or unwilling to establish such a fund pursuant to clause (ii).".

42 USC 6991b. (d) EPA Response Program.—Section 9003 of the Solid Waste Disposal Act is amended by adding after subsection (g) the following new subsection:

State and local governments. "(h) EPA Response Program for Petroleum.—

"(1) Before regulations.—Before the effective date of regulations under subsection (c), the Administrator (or a State pursuant to paragraph (7)) is authorized to—

"(A) require the owner or operator of an underground storage tank to undertake corrective action with respect to any release of petroleum when the Administrator (or the State) determines that such corrective action will be done properly and promptly by the owner or operator of the underground storage tank from which the release occurs; or

"(B) undertake corrective action with respect to any release of petroleum into the environment from an underground storage tank if such action is necessary, in the judgment of the Administrator (or the State), to protect human health and the environment.

The corrective action undertaken or required under this paragraph shall be such as may be necessary to protect human health and the environment. The Administrator shall use funds in the Leaking Underground Storage Tank Trust Fund for payment of costs incurred for corrective action under subparagraph (B), enforcement action under subparagraph (A), and cost recovery under paragraph (6) of this subsection. Subject to the priority requirements of paragraph (3), the Administrator (or the State) shall give priority in undertaking such actions under subparagraph (B) to cases where the Administrator (or the State) cannot identify a solvent owner or operator of the tank who will undertake action properly.

"(2) After regulations.—Following the effective date of regulations under subsection (c), all actions or orders of the Administrator (or a State pursuant to paragraph (7)) described in paragraph (1) of this subsection shall be in conformity with such regulations. Following such effective date, the Administrator (or the State) may undertake corrective action with respect to any release of petroleum into the environment from an underground storage tank only if such action is necessary, in the judgment of the Administrator (or the State), to protect human health and the environment and one or more of the following situations exists:

"(A) No person can be found, within 90 days or such shorter period as may be necessary to protect human health and the environment, who is—

"(i) an owner or operator of the tank concerned,

"(ii) subject to such corrective action regulations, and

"(iii) capable of carrying out such corrective action properly.

"(B) A situation exists which requires prompt action by the Administrator (or the State) under this paragraph to protect human health and the environment.

"(C) Corrective action costs at a facility exceed the amount of coverage required by the Administrator pursuant to the provisions of subsections (c) and (d)(5) of this section and, considering the class or category of underground storage tank from which the release occurred, expenditures from the Leaking Underground Storage Tank Trust Fund are necessary to assure an effective corrective action.

"(D) The owner or operator of the tank has failed or refused to comply with an order of the Administrator under this subsection or section 9006 or with the order of a State under this subsection to comply with the corrective action regulations.

42 USC 6991e

"(3) Priority of corrective actions.—The Administrator (or a State pursuant to paragraph (7)) shall give priority in undertaking corrective actions under this subsection, and in issuing orders requiring owners or operators to undertake such actions, to releases of petroleum from underground storage tanks which pose the greatest threat to human health and the environment.

"(4) Corrective action orders.—The Administrator is authorized to issue orders to the owner or operator of an underground storage tank to carry out subparagraph (A) of paragraph (1) or to carry out regulations issued under subsection (c)(4). A State acting pursuant to paragraph (7) of this subsection is authorized to carry out subparagraph (A) of paragraph (1) only until the State's program is approved by the Administrator under section 9004 of this subtitle. Such orders shall be issued and enforced in the same manner and subject to the same requirements as orders under section 9006.

42 USC 6991c

"(5) Allowable corrective actions.—The corrective actions undertaken by the Administrator (or a State pursuant to paragraph (7)) under paragraph (1) or (2) may include temporary or permanent relocation of residents and alternative household water supplies. In connection with the performance of any corrective action under paragraph (1) or (2), the Administrator may undertake an exposure assessment as defined in paragraph (10) of this subsection or provide for such an assessment in a cooperative agreement with a State pursuant to paragraph (7) of this subsection. The costs of any such assessment may be treated as corrective action for purposes of paragraph (6), relating to cost recovery.

"(6) Recovery of costs.—

"(A) In general.—Whenever costs have been incurred by the Administrator, or by a State pursuant to paragraph (7), for undertaking corrective action or enforcement action with respect to the release of petroleum from an underground storage tank, the owner or operator of such tank shall be liable to the Administrator or the State for such costs. The liability under this paragraph shall be construed to be the standard of liability which obtains under section 33 USC 1321. 311 of the Federal Water Pollution Control Act.

"(B) Recovery.—In determining the equities for seeking the recovery of costs under subparagraph (A), the Administrator (or a State pursuant to paragraph (7) of this subsection) may consider the amount of financial responsibility required to be maintained under subsections (c) and (d)(5) of this section and the factors considered in establishing such amount under subsection (d)(5).

"(C) Effect on liability.—

"(i) No transfers of liability.—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer from the owner or operator of any underground storage tank or from any person who may be liable for a release or threat of release under this subsection, to any other person the liability imposed under this subsection. Nothing in this subsection shall bar any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this section.

"(ii) No bar to cause of action.—Nothing in this subsection, including the provisions of clause (i) of this subparagraph, shall bar a cause of action that an owner or operator or any other person subject to liability under this section, or a guarantor, has or would have, by reason of subrogation or otherwise against any person.

"(D) Facility.—For purposes of this paragraph, the term 'facility' means, with respect to any owner or operator, all underground storage tanks used for the storage of petroleum which are owned or operated by such owner or operator and located on a single parcel of property (or on any contiguous or adjacent property).

"(7) State authorities.—

"(A) General.—A State may exercise the authorities in paragraphs (1) and (2) of this subsection, subject to the terms and conditions of paragraphs (3), (5), (9), (10), and (11), and including the authorities of paragraphs (4), (6), and (8) of this subsection if—

"(i) the Administrator determines that the State has the capabilities to carry out effective corrective actions and enforcement activities; and

Contracts "(ii) the Administrator enters into a cooperative agreement with the State setting out the actions to be undertaken by the State.

The Administrator may provide funds from the Leaking Underground Storage Tank Trust Fund for the reasonable costs of the State's actions under the cooperative agreement.

"(B) COST SHARE.—Following the effective date of the regulations under subsection (c) of this section, the State shall pay 10 per centum of the cost of corrective actions undertaken either by the Administrator or by the State under a cooperative agreement, except that the Administrator may take corrective action at a facility where immediate action is necessary to respond to an imminent and substantial endangerment to human health or the environment if the State fails to pay the cost share.

"(8) EMERGENCY PROCUREMENT POWERS.—Notwithstanding any other provision of law, the Administrator may authorize the use of such emergency procurement powers as he deems necessary.

"(9) DEFINITION OF OWNER.—As used in this subsection, the term 'owner' does not include any person who, without participating in the management of an underground storage tank and otherwise not engaged in petroleum production, refining, and marketing, holds indicia of ownership primarily to protect the owner's security interest in the tank.

"(10) DEFINITION OF EXPOSURE ASSESSMENT.—As used in this subsection, the term 'exposure assessment' means an assessment to determine the extent of exposure of, or potential for exposure of, individuals to petroleum from a release from an underground storage tank based on such factors as the nature and extent of contamination and the existence of or potential for pathways of human exposure (including ground or surface water contamination, air emissions, and food chain contamination), the size of the community within the likely pathways of exposure, and the comparison of expected human exposure levels to the short-term and long-term health effects associated with identified contaminants and any available recommended exposure or tolerance limits for such contaminants. Such assessment shall not delay corrective action to abate immediate hazards or reduce exposure.

"(11) FACILITIES WITHOUT FINANCIAL RESPONSIBILITY.—At any facility where the owner or operator has failed to maintain evidence of financial responsibility in amounts at least equal to the amounts established by subsection (d)(5)(A) of this section (or a lesser amount if such amount is applicable to such facility as a result of subsection (d)(5)(B) of this section) for whatever reason the Administrator shall expend no monies from the Leaking Underground Storage Tank Trust Fund to clean up releases at such facility pursuant to the provisions of paragraph (1) or (2) of this subsection. At such facilities the Administrator shall use the authorities provided in subparagraph (A) of paragraph (1) and paragraph (4) of this subsection and section 9006 of this subtitle to order corrective action to clean up such releases. 42 USC 6991e. States acting pursuant to paragraph (7) of this subsection shall use the authorities provided in subparagraph (A) of paragraph (1) and paragraph (4) of this subsection to order corrective action to clean up such releases. Notwithstanding the provisions of this paragraph, the Administrator may use monies from the fund to take the corrective actions authorized by paragraph (5) of this subsection to protect human health at such facilities and shall seek full recovery of the costs of all such actions pursuant to the provisions of paragraph (6)(A) of this subsection and without consideration of the factors in paragraph (6)(B) of this subsection. Nothing in this paragraph shall prevent the Administrator (or a State pursuant to paragraph (7) of this subsection) from taking corrective action at a facility where there is no solvent owner or operator or where immediate action is necessary to respond to an imminent and substantial endangerment of human health or the environment.".

42 USC 6991c.

(e) FINANCIAL RESPONSIBILITY IN STATE PROGRAMS.—

(1) Section 9004(c)(1) of the Solid Waste Disposal Act is amended by striking out "financed by fees on tank owners and operators and".

(2) Section 9004(c)(2) of the Solid Waste Disposal Act is amended by striking out "or" after "credit," in the first sentence and by striking out the period at the end thereof and inserting in lieu thereof the following: "or any other method satisfactory to the Administrator.". Such section is further amended by adding after the word "terms" in the second sentence the following: "including the amount of coverage required for various classes and categories of underground storage tanks pursuant to section 9003(d)(5)".

Ante, p. 1697.

42 USC 6991d.

(f) AUTHORITY TO ENTER FOR CORRECTIVE ACTIONS.—

(1) Section 9005(a) of the Solid Waste Disposal Act is amended by inserting the words "taking any corrective action" after the word "study", inserting the words "acting pursuant to subsection (h)(7) of section 9003 or" after the words "or representative of a State", striking the word "and" before the words "permit such officer", and inserting the words "and permit such officer to have access for corrective action" after the words "relating to such tanks" in the first sentence thereof. Such section is further amended by inserting the words "taking corrective action," after the word "study," in the second sentence thereof.

(2) Section 9005(a) of the Solid Waste Disposal Act is amended by striking the word "and" at the end of paragraph (2), striking out the period at the end of paragraph (3) and inserting "; and", and adding the following new paragraph at the end thereof—

"(4) to take corrective action.".

(3) Section 9005 of the Solid Waste Disposal Act is amended by changing the heading thereof to read as follows—

"INSPECTIONS, MONITORING, TESTING AND CORRECTIVE ACTION".

(g) COORDINATION WITH OTHER LAWS.—Section 9008 of the Solid Waste Disposal Act is amended to read as follows:

"STATE AUTHORITY

42 USC 6991g.

"SEC. 9008. Nothing in this subtitle shall preclude or deny any right of any State or political subdivision thereof to adopt or enforce any regulation, requirement, or standard of performance respecting underground storage tanks that is more stringent than a regulation, requirement, or standard of performance in effect under this subtitle or to impose any additional liability with respect to the release of regulated substances within such State or political subdivision.".

42 USC 6991b note.

(h) POLLUTION LIABILITY INSURANCE.—

(1) STUDY.—The Comptroller General shall conduct a study of the availability of pollution liability insurance, leak insurance, and contamination insurance for owners and operators of petroleum storage and distribution facilities. The study shall assess

the current and projected extent to which private insurance can contribute to the financial responsibility of owners and operators of underground storage tanks and the ability of owners and operators of underground storage tanks to maintain financial responsibility through other methods. The study shall consider the experience of owners and operators of marine vessels in getting insurance for their liabilities under the Federal Water Pollution Control Act and the operation of the Water Quality Insurance Syndicate.

Vessels.

33 USC 1251 note.

(2) Report.—The Comptroller General shall report the findings under this subsection to the Congress within 15 months after the enactment of this subsection. Such report shall include recommendations for legislative or administrative changes that will enable owners and operators of underground storage tanks to maintain financial responsibility sufficient to provide all clean-up costs and damages that may result from reasonably foreseeable releases and events.

(i) Criminal Penalties Relating to Used Oil.—Subtitle C of the Solid Waste Disposal Act is amended as follows:

42 USC 6928.

(1) In paragraphs (4) and (5) of section 3008(d) after "hazardous waste" insert "or any used oil not identified or listed as a hazardous waste under this subtitle".

(2) Delete "accompanied by a manifest; ; or" in paragraph (5) and insert "accompanied by a manifest;".

(3) Insert "; or" after paragraph (6).

(4) Add the following new paragraph after paragraph (6): "(7) knowingly stores, treats, transports, or causes to be transported, disposes of, or otherwise handles any used oil not identified or listed as a hazardous waste under subtitle C of the Solid Waste Disposal Act—

42 USC 6921.

"(A) in knowing violation of any material condition or requirement of a permit under this subtitle C; or

"(B) in knowing violation of any material condition or requirement of any applicable regulations or standards under this Act;".

(5) In section 3008(e):

(A) Insert "or used oil not identified or listed as a hazardous waste under this subtitle" immediately after "this subtitle".

(B) Strike "or" immediately before "(6)".

(C) Insert ", or (7)" immediately after "(6)".

(j) State Programs for Used Oil.—Section 3006 of the Solid Waste Disposal Act is amended by adding the following new subsection at the end thereof:

42 USC 6926.

"(h) State Programs for Used Oil.—In the case of used oil which is not listed or identified under this subtitle as a hazardous waste but which is regulated under section 3014, the provisions of this section regarding State programs shall apply in the same manner and to the same extent as such provisions apply to hazardous waste identified or listed under this subtitle.".

42 USC 6935.

SEC. 206. CITIZENS SUITS.

Title III of CERCLA is amended by adding the following new section after section 309:

42 USC 9659.

"SEC. 310. CITIZENS SUITS.

"(a) AUTHORITY TO BRING CIVIL ACTIONS.—Except as provided in subsections (d) and (e) of this section and in section 113(h) (relating to timing of judicial review), any person may commence a civil action on his own behalf—

Ante, p. 1650.

"(1) against any person (including the United States and any other governmental instrumentality or agency, to the extent permitted by the eleventh amendment to the Constitution) who is alleged to be in violation of any standard, regulation, condition, requirement, or order which has become effective pursuant to this Act (including any provision of an agreement under section 120, relating to Federal facilities); or

"(2) against the President or any other officer of the United States (including the Administrator of the Environmental Protection Agency and the Administrator of the ATSDR) where there is alleged a failure of the President or of such other officer to perform any act or duty under this Act, including an act or duty under section 120 (relating to Federal facilities), which is not discretionary with the President or such other officer.

Paragraph (2) shall not apply to any act or duty under the provisions of section 311 (relating to research, development, and demonstration).

"(b) VENUE.—

"(1) ACTIONS UNDER SUBSECTION (a)(1).—Any action under subsection (a)(1) shall be brought in the district court for the district in which the alleged violation occurred.

District of Columbia.

"(2) ACTIONS UNDER SUBSECTION (a)(2).—Any action brought under subsection (a)(2) may be brought in the United States District Court for the District of Columbia.

Law enforcement and crime.

"(c) RELIEF.—The district court shall have jurisdiction in actions brought under subsection (a)(1) to enforce the standard, regulation, condition, requirement, or order concerned (including any provision of an agreement under section 120), to order such action as may be necessary to correct the violation, and to impose any civil penalty provided for the violation. The district court shall have jurisdiction in actions brought under subsection (a)(2) to order the President or other officer to perform the act or duty concerned.

"(d) RULES APPLICABLE TO SUBSECTION (a)(1) ACTIONS.—

"(1) NOTICE.—No action may be commenced under subsection (a)(1) of this section before 60 days after the plaintiff has given notice of the violation to each of the following:

"(A) The President.

"(B) The State in which the alleged violation occurs.

"(C) Any alleged violator of the standard, regulation, condition, requirement, or order concerned (including any provision of an agreement under section 120).

President of U.S. Regulations.

Notice under this paragraph shall be given in such manner as the President shall prescribe by regulation.

"(2) DILIGENT PROSECUTION.—No action may be commenced under paragraph (1) of subsection (a) if the President has commenced and is diligently prosecuting an action under this Act, or under the Solid Waste Disposal Act to require compliance with the standard, regulation, condition, requirement, or order concerned (including any provision of an agreement under section 120).

42 USC 6901 note.

"(e) RULES APPLICABLE TO SUBSECTION (a)(2) ACTIONS.—No action may be commenced under paragraph (2) of subsection (a) before the 60th day following the date on which the plaintiff gives notice to the Administrator or other department, agency, or instrumentality that the plaintiff will commence such action. Notice under this subsection shall be given in such manner as the President shall prescribe by regulation.

President of U.S. Regulations.

"(f) COSTS.—The court, in issuing any final order in any action brought pursuant to this section, may award costs of litigation (including reasonable attorney and expert witness fees) to the prevailing or the substantially prevailing party whenever the court determines such an award is appropriate. The court may, if a temporary restraining order or preliminary injunction is sought, require the filing of a bond or equivalent security in accordance with the Federal Rules of Civil Procedure.

18 USC app.

"(g) INTERVENTION.—In any action under this section, the United States or the State, or both, if not a party may intervene as a matter of right. For other provisions regarding intervention, see section 113.

"(h) OTHER RIGHTS.—This Act does not affect or otherwise impair the rights of any person under Federal, State, or common law, except with respect to the timing of review as provided in section 113(h) or as otherwise provided in section 309 (relating to actions under State law).

Ante, p. 1650.

"(i) DEFINITIONS.—The terms used in this section shall have the same meanings as when used in title I.".

42 USC 9601.

SEC. 207. INDIAN TRIBES.

(a) DEFINITION.—For definition of Indian tribe, see the amendments made by section 101 of this Act.

(b) FUTURE MAINTENANCE AND COST SHARING.—Section 104(c)(3) of CERCLA is amended by adding at the end thereof the following: "In the case of remedial action to be taken on land or water held by an Indian tribe, held by the United States in trust for Indians, held by a member of an Indian tribe (if such land or water is subject to a trust restriction on alienation), or otherwise within the borders of an Indian reservation, the requirements of this paragraph for assurances regarding future maintenance and cost-sharing shall not apply, and the President shall provide the assurance required by this paragraph regarding the availability of a hazardous waste disposal facility.".

42 USC 9604.

(c) LIABILITY.—Section 107 of CERCLA is amended as follows:

42 USC 9607.

(1) In subsection (a) by inserting "or an Indian tribe" after "State";

(2) In subsection (f):

(A) Insert after "State" the third time that word appears the following: "and to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation".

(B) Insert "or Indian tribe" after "State" the fourth time that word appears.

(C) Add before the period at the end of the first sentence the following: ", so long as, in the case of damages to an Indian tribe occurring pursuant to a Federal permit or license, the issuance of that permit or license was not inconsistent with the fiduciary duty of the United States with respect to such Indian tribe".

(D) Insert "or the Indian tribe" after "State government".

(3) In subsection (i) insert "or Indian tribe" after "State" the first time it appears.

(4) In subsection (j) insert "or Indian tribe" after "State" the first time it appears.

42 USC 9611.

(d) NATURAL RESOURCES CLAIMS, DELEGATION, ETC.—Section 111 of CERCLA is amended as follows:

(1) In subsection (b), insert before the period at the end thereof the following: ", or by any Indian tribe or by the United States acting on behalf of any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation";

(2) In subsection (c)(2) insert "or Indian tribe" after "State".

(3) In subsection (f) insert "or Indian tribe" after "State"; and

(4) In subsection (i) insert after "State," the following: "and by the governing body of any Indian tribe having sustained damage to natural resources belonging to, managed by, controlled by, or appertaining to such tribe, or held in trust for the benefit of such tribe, or belonging to a member of such tribe if such resources are subject to a trust restriction on alienation,".

(e) TREATMENT OF TRIBES GENERALLY.—Title I of CERCLA is amended by adding the following new section after section 125:

42 USC 9626.

"SEC. 126. INDIAN TRIBES.

42 USC 9603.
42 USC 9604.
Ante, p. 1636; 42 USC 9605.

"(a) TREATMENT GENERALLY.—The governing body of an Indian tribe shall be afforded substantially the same treatment as a State with respect to the provisions of section 103(a) (regarding notification of releases), section 104(c)(2) (regarding consultation on remedial actions), section 104(e) (regarding access to information), section 104(i) (regarding health authorities) and section 105 (regarding roles and responsibilities under the national contingency plan and submittal of priorities for remedial action, but not including the provision regarding the inclusion of at least one facility per State on the National Priorities List).

President of U.S.
Health and medical care.
Real property.

"(b) COMMUNITY RELOCATION.—Should the President determine that proper remedial action is the permanent relocation of tribal members away from a contaminated site because it is cost effective and necessary to protect their health and welfare, such finding must be concurred in by the affected tribal government before relocation shall occur. The President, in cooperation with the Secretary of the Interior, shall also assure that all benefits of the relocation program are provided to the affected tribe and that alternative land of equivalent value is available and satisfactory to the tribe. Any lands acquired for relocation of tribal members shall be held in trust by the United States for the benefit of the tribe.

President of U.S.
Reports.

"(c) STUDY.—The President shall conduct a survey, in consultation with the Indian tribes, to determine the extent of hazardous waste sites on Indian lands. Such survey shall be included within a report which shall make recommendations on the program needs of tribes under this Act, with particular emphasis on how tribal participation in the administration of such programs can be maximized. Such report shall be submitted to Congress along with the President's budget request for fiscal year 1988.

"(d) LIMITATION.—Notwithstanding any other provision of this Act, no action under this Act by an Indian tribe shall be barred until the later of the following:

"(1) The applicable period of limitations has expired.

"(2) 2 years after the United States, in its capacity as trustee for the tribe, gives written notice to the governing body of the tribe that it will not present a claim or commence an action on behalf of the tribe or fails to present a claim or commence an action within the time limitations specified in this Act.".

Claims.

SEC. 208. INSURABILITY STUDY.

Section 301 of CERCLA is amended by adding the following new subsection at the end thereof:

Post, p. 1726.
42 USC 9651.

"(g) INSURABILITY STUDY.—

"(1) STUDY BY COMPTROLLER GENERAL.—The Comptroller General of the United States, in consultation with the persons described in paragraph (2), shall undertake a study to determine the insurability, and effects on the standard of care, of the liability of each of the following:

"(A) Persons who generate hazardous substances: liability for costs and damages under this Act.

"(B) Persons who own or operate facilities: liability for costs and damages under this Act.

"(C) Persons liable for injury to persons or property caused by the release of hazardous substances into the environment.

"(2) CONSULTATION.—In conducting the study under this subsection, the Comptroller General shall consult with the following:

"(A) Representatives of the Administrator.

"(B) Representatives of persons described in subparagraphs (A) through (C) of the preceding paragraph.

"(C) Representatives (i) of groups or organizations comprised generally of persons adversely affected by releases or threatened releases of hazardous substances and (ii) of groups organized for protecting the interests of consumers.

"(D) Representatives of property and casualty insurers.

"(E) Representatives of reinsurers.

"(F) Persons responsible for the regulation of insurance at the State level.

"(3) ITEMS EVALUATED.—The study under this section shall include, among other matters, an evaluation of the following:

"(A) Current economic conditions in, and the future outlook for, the commercial market for insurance and reinsurance.

"(B) Current trends in statutory and common law remedies.

"(C) The impact of possible changes in traditional standards of liability, proof, evidence, and damages on existing statutory and common law remedies.

"(D) The effect of the standard of liability and extent of the persons upon whom it is imposed under this Act on the protection of human health and the environment and on the availability, underwriting, and pricing of insurance coverage.

"(E) Current trends, if any, in the judicial interpretation and construction of applicable insurance contracts, together with the degree to which amendments in the language of such contracts and the description of the risks assumed, could affect such trends.

"(F) The frequency and severity of a representative sample of claims closed during the calendar year immediately preceding the enactment of this subsection.

"(G) Impediments to the acquisition of insurance or other means of obtaining liability coverage other than those referred to in the preceding subparagraphs.

"(H) The effects of the standards of liability and financial responsibility requirements imposed pursuant to this Act on the cost of, and incentives for, developing and demonstrating alternative and innovative treatment technologies, as well as waste generation minimization.

Reports.

"(4) SUBMISSION.—The Comptroller General shall submit a report on the results of the study to Congress with appropriate recommendations within 12 months after the enactment of this subsection.".

SEC. 209. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

42 USC 9660 note.

(a) PURPOSE.—The purposes of this section are as follows:

(1) To establish a comprehensive and coordinated Federal program of research, development, demonstration, and training for the purpose of promoting the development of alternative and innovative treatment technologies that can be used in response actions under the CERCLA program, to provide incentives for the development and use of such technologies, and to improve the scientific capability to assess, detect and evaluate the effects on and risks to human health from hazardous substances.

Schools and colleges. Education.

(2) To establish a basic university research and education program within the Department of Health and Human Services and a research, demonstration, and training program within the Environmental Protection Agency.

(3) To reserve certain funds from the Hazardous Substance Trust Fund to support a basic research program within the Department of Health and Human Services, and an applied and developmental research program within the Environmental Protection Agency.

(4) To enhance the Environmental Protection Agency's internal research capabilities related to CERCLA activities, including site assessment and technology evaluation.

(5) To provide incentives for the development of alternative and innovative treatment technologies in a manner that supplements or coordinates with, but does not compete with or duplicate, private sector development of such technologies.

(b) AMENDMENT OF CERCLA.—Title III of CERCLA is amended by adding the following new section at the end thereof:

42 USC 9660.

"SEC. 311. RESEARCH, DEVELOPMENT, AND DEMONSTRATION.

"(a) HAZARDOUS SUBSTANCE RESEARCH AND TRAINING.—

"(1) AUTHORITIES OF SECRETARY.—The Secretary of Health and Human Services (hereinafter in this subsection referred to as the Secretary), in consultation with the Administrator, shall establish and support a basic research and training program (through grants, cooperative agreements, and contracts) consisting of the following:

"(A) Basic research (including epidemiologic and ecologic studies) which may include each of the following:

"(i) Advanced techniques for the detection, assessment, and evaluation of the effects on human health of hazardous substances.

"(ii) Methods to assess the risks to human health presented by hazardous substances.

"(iii) Methods and technologies to detect hazardous substances in the environment and basic biological, chemical, and physical methods to reduce the amount and toxicity of hazardous substances.

'(B) Training, which may include each of the following:

"(i) Short courses and continuing education for State and local health and environment agency personnel and other personnel engaged in the handling of hazardous substances, in the management of facilities at which hazardous substances are located, and in the evaluation of the hazards to human health presented by such facilities.

"(ii) Graduate or advanced training in environmental and occupational health and safety and in the public health and engineering aspects of hazardous waste control.

"(iii) Graduate training in the geosciences, including hydrogeology, geological engineering, geophysics, geochemistry, and related fields necessary to meet professional personnel needs in the public and private sectors and to effectuate the purposes of this Act.

"(2) DIRECTOR OF NIEHS.—The Director of the National Institute for Environmental Health Sciences shall cooperate fully with the relevant Federal agencies referred to in subparagraph (A) of paragraph (5) in carrying out the purposes of this section.

"(3) RECIPIENTS OF GRANTS, ETC.—A grant, cooperative agreement, or contract may be made or entered into under paragraph (1) with an accredited institution of higher education. The institution may carry out the research or training under the grant, cooperative agreement, or contract through contracts, including contracts with any of the following:

"(A) Generators of hazardous wastes.

"(B) Persons involved in the detection, assessment, evaluation, and treatment of hazardous substances.

"(C) Owners and operators of facilities at which hazardous substances are located.

"(D) State and local governments.

"(4) PROCEDURES.—In making grants and entering into cooperative agreements and contracts under this subsection, the Secretary shall act through the Director of the National Institute for Environmental Health Sciences. In considering the allocation of funds for training purposes, the Director shall ensure that at least one grant, cooperative agreement, or contract shall be awarded for training described in each of clauses (i), (ii), and (iii) of paragraph (1)(B). Where applicable, the Director may choose to operate training activities in cooperation with the Director of the National Institute for Occupational Safety and Health. The procedures applicable to grants and contracts under title IV of the Public Health Service Act shall be followed under this subsection.

Grants.
Contracts.

42 USC 281.

"(5) ADVISORY COUNCIL.—To assist in the implementation of this subsection and to aid in the coordination of research and demonstration and training activities funded from the Fund under this section, the Secretary shall appoint an advisory council (hereinafter in this subsection referred to as the 'Advisory Council') which shall consist of representatives of the following:

"(A) The relevant Federal agencies.
"(B) The chemical industry.
"(C) The toxic waste management industry.
"(D) Institutions of higher education.
"(E) State and local health and environmental agencies.
"(F) The general public.

"(6) PLANNING.—Within nine months after the date of the enactment of this subsection, the Secretary, acting through the Director of the National Institute for Environmental Health Sciences, shall issue a plan for the implementation of paragraph (1). The plan shall include priorities for actions under paragraph (1) and include research and training relevant to scientific and technological issues resulting from site specific hazardous substance response experience. The Secretary shall, to the maximum extent practicable, take appropriate steps to coordinate program activities under this plan with the activities of other Federal agencies in order to avoid duplication of effort. The plan shall be consistent with the need for the development of new technologies for meeting the goals of response actions in accordance with the provisions of this Act. The Advisory Council shall be provided an opportunity to review and comment on the plan and priorities and assist appropriate coordination among the relevant Federal agencies referred to in subparagraph (A) of paragraph (5).

Science and technology.

"(b) ALTERNATIVE OR INNOVATIVE TREATMENT TECHNOLOGY RESEARCH AND DEMONSTRATION PROGRAM.—

Health and medical care.

"(1) ESTABLISHMENT.—The Administrator is authorized and directed to carry out a program of research, evaluation, testing, development, and demonstration of alternative or innovative treatment technologies (hereinafter in this subsection referred to as the 'program') which may be utilized in response actions to achieve more permanent protection of human health and welfare and the environment.

"(2) ADMINISTRATION.—The program shall be administered by the Administrator, acting through an office of technology demonstration and shall be coordinated with programs carried out by the Office of Solid Waste and Emergency Response and the Office of Research and Development.

"(3) CONTRACTS AND GRANTS.—In carrying out the program, the Administrator is authorized to enter into contracts and cooperative agreements with, and make grants to, persons, public entities, and nonprofit private entities which are exempt from tax under section 501(c)(3) of the Internal Revenue Code of 1954. The Administrator shall, to the maximum extent possible, enter into appropriate cost sharing arrangements under this subsection.

26 USC 501.

"(4) USE OF SITES.—In carrying out the program, the Administrator may arrange for the use of sites at which a response may be undertaken under section 104 for the purposes of carrying out research, testing, evaluation, development, and demonstra-

42 USC 9604.

tion projects. Each such project shall be carried out under such terms and conditions as the Administrator shall require to assure the protection of human health and the environment and to assure adequate control by the Administrator of the research, testing, evaluation, development, and demonstration activities at the site.

Health and medical care.

"(5) DEMONSTRATION ASSISTANCE.—

"(A) PROGRAM COMPONENTS.—The demonstration assistance program shall include the following:

"(i) The publication of a solicitation and the evaluation of applications for demonstration projects utilizing alternative or innovative technologies.

"(ii) The selection of sites which are suitable for the testing and evaluation of innovative technologies.

"(iii) The development of detailed plans for innovative technology demonstration projects.

"(iv) The supervision of such demonstration projects and the providing of quality assurance for data obtained.

"(v) The evaluation of the results of alternative innovative technology demonstration projects and the determination of whether or not the technologies used are effective and feasible.

"(B) SOLICITATION.—Within 90 days after the date of the enactment of this section, and no less often than once every 12 months thereafter, the Administrator shall publish a solicitation for innovative or alternative technologies at a stage of development suitable for full-scale demonstrations at sites at which a response action may be undertaken under section 104. The purpose of any such project shall be to demonstrate the use of an alternative or innovative treatment technology with respect to hazardous substances or pollutants or contaminants which are located at the site or which are to be removed from the site. The solicitation notice shall prescribe information to be included in the application, including technical and economic data derived from the applicant's own research and development efforts, and other information sufficient to permit the Administrator to assess the technology's potential and the types of remedial action to which it may be applicable.

42 USC 9604.

"(C) APPLICATIONS.—Any person and any public or private nonprofit entity may submit an application to the Administrator in response to the solicitation. The application shall contain a proposed demonstration plan setting forth how and when the project is to be carried out and such other information as the Administrator may require.

"(D) PROJECT SELECTION.—In selecting technologies to be demonstrated, the Administrator shall fully review the applications submitted and shall consider at least the criteria specified in paragraph (7). The Administrator shall select or refuse to select a project for demonstration under this subsection within 90 days of receiving the completed application for such project. In the case of a refusal to select the project, the Administrator shall notify the applicant within such 90-day period of the reasons for his refusal.

"(E) SITE SELECTION.—The Administrator shall propose 10 sites at which a response may be undertaken under section

42 USC 9604.

104 to be the location of any demonstration project under this subsection within 60 days after the close of the public comment period. After an opportunity for notice and public comment, the Administrator shall select such sites and projects. In selecting any such site, the Administrator shall take into account the applicant's technical data and preferences either for onsite operation or for utilizing the site as a source of hazardous substances or pollutants or contaminants to be treated offsite.

"(F) Demonstration plan.—Within 60 days after the selection of the site under this paragraph to be the location of a demonstration project, the Administrator shall establish a final demonstration plan for the project, based upon the demonstration plan contained in the application for the project. Such plan shall clearly set forth how and when the demonstration project will be carried out.

Contracts.

"(G) Supervision and testing.—Each demonstration project under this subsection shall be performed by the applicant, or by a person satisfactory to the applicant, under the supervision of the Administrator. The Administrator shall enter into a written agreement with each applicant granting the Administrator the responsibility and authority for testing procedures, quality control, monitoring, and other measurements necessary to determine and evaluate the results of the demonstration project. The Administrator may pay the costs of testing, monitoring, quality control, and other measurements required by the Administrator to determine and evaluate the results of the demonstration project, and the limitations established by subparagraph (J) shall not apply to such costs.

"(H) Project completion.—Each demonstration project under this subsection shall be completed within such time as is established in the demonstration plan.

Contracts.

"(I) Extensions.—The Administrator may extend any deadline established under this paragraph by mutual agreement with the applicant concerned.

"(J) Funding restrictions.—The Administrator shall not provide any Federal assistance for any part of a full-scale field demonstration project under this subsection to any applicant unless such applicant can demonstrate that it cannot obtain appropriate private financing on reasonable terms and conditions sufficient to carry out such demonstration project without such Federal assistance. The total Federal funds for any full-scale field demonstration project under this subsection shall not exceed 50 percent of the total cost of such project estimated at the time of the award of such assistance. The Administrator shall not expend more than $10,000,000 for assistance under the program in any fiscal year and shall not expend more than $3,000,000 for any single project.

42 USC 9604.
Reports.

"(6) Field demonstrations.—In carrying out the program, the Administrator shall initiate or cause to be initiated at least 10 field demonstration projects of alternative or innovative treatment technologies at sites at which a response may be undertaken under section 104, in fiscal year 1987 and each of the succeeding three fiscal years. If the Administrator determines that 10 field demonstration projects under this subsection cannot be initiated consistent with the criteria set forth in paragraph (7) in any of such fiscal years, the Administrator shall transmit to the appropriate committees of Congress a report explaining the reasons for his inability to conduct such demonstration projects.

Health and medical care.

"(7) CRITERIA.—In selecting technologies to be demonstrated under this subsection, the Administrator shall, consistent with the protection of human health and the environment, consider each of the following criteria:

"(A) The potential for contributing to solutions to those waste problems which pose the greatest threat to human health, which cannot be adequately controlled under present technologies, or which otherwise pose significant management difficulties.

"(B) The availability of technologies which have been sufficiently developed for field demonstration and which are likely to be cost-effective and reliable.

"(C) The availability and suitability of sites for demonstrating such technologies, taking into account the physical, biological, chemical, and geological characteristics of the sites, the extent and type of contamination found at the site, and the capability to conduct demonstration projects in such a manner as to assure the protection of human health and the environment.

"(D) The likelihood that the data to be generated from the demonstration project at the site will be applicable to other sites.

Public information. Classified information. Law enforcement and crime.

"(8) TECHNOLOGY TRANSFER.—In carrying out the program, the Administrator shall conduct a technology transfer program including the development, collection, evaluation, coordination, and dissemination of information relating to the utilization of alternative or innovative treatment technologies for response actions. The Administrator shall establish and maintain a central reference library for such information. The information maintained by the Administrator shall be made available to the public, subject to the provisions of section 552 of title 5 of the United States Code and section 1905 of title 18 of the United States Code, and to other Government agencies in a manner that will facilitate its dissemination; except, that upon a showing satisfactory to the Administrator by any person that any information or portion thereof obtained under this subsection by the Administrator directly or indirectly from such person, would, if made public, divulge—

"(A) trade secrets; or

"(B) other proprietary information of such person,

the Administrator shall not disclose such information and disclosure thereof shall be punishable under section 1905 of title 18 of the United States Code. This subsection is not authority to withhold information from Congress or any committee of Congress upon the request of the chairman of such committee.

"(9) TRAINING.—The Administrator is authorized and directed to carry out, through the Office of Technology Demonstration, a program of training and an evaluation of training needs for each of the following:

"(A) Training in the procedures for the handling and removal of hazardous substances for employees who handle hazardous substances.

"(B) Training in the management of facilities at which hazardous substances are located and in the evaluation of the hazards to human health presented by such facilities for State and local health and environment agency personnel.

"(10) Definition.—For purposes of this subsection, the term 'alternative or innovative treatment technologies' means those technologies, including proprietary or patented methods, which permanently alter the composition of hazardous waste through chemical, biological, or physical means so as to significantly reduce the toxicity, mobility, or volume (or any combination thereof) of the hazardous waste or contaminated materials being treated. The term also includes technologies that characterize or assess the extent of contamination, the chemical and physical character of the contaminants, and the stresses imposed by the contaminants on complex ecosystems at sites.

Grants.
Contracts.
Health and medical care.

"(c) Hazardous Substance Research.—The Administrator may conduct and support, through grants, cooperative agreements, and contracts, research with respect to the detection, assessment, and evaluation of the effects on and risks to human health of hazardous substances and detection of hazardous substances in the environment. The Administrator shall coordinate such research with the Secretary of Health and Human Services, acting through the advisory council established under this section, in order to avoid duplication of effort.

Grants.

"(d) University Hazardous Substance Research Centers.—

"(1) Grant program.—The Administrator shall make grants to institutions of higher learning to establish and operate not fewer than 5 hazardous substance research centers in the United States. In carrying out the program under this subsection, the Administrator should seek to have established and operated 10 hazardous substance research centers in the United States.

"(2) Responsibilities of centers.—The responsibilities of each hazardous substance research center established under this subsection shall include, but not be limited to, the conduct of research and training relating to the manufacture, use, transportation, disposal, and management of hazardous substances and publication and dissemination of the results of such research.

"(3) Applications.—Any institution of higher learning interested in receiving a grant under this subsection shall submit to the Administrator an application in such form and containing such information as the Administrator may require by regulation.

"(4) Selection criteria.—The Administrator shall select recipients of grants under this subsection on the basis of the following criteria:

"(A) The hazardous substance research center shall be located in a State which is representative of the needs of the region in which such State is located for improved hazardous waste management.

"(B) The grant recipient shall be located in an area which has experienced problems with hazardous substance management.

"(C) There is available to the grant recipient for carrying out this subsection demonstrated research resources.

"(D) The capability of the grant recipient to provide leadership in making national and regional contributions to the solution of both long-range and immediate hazardous substance management problems.

"(E) The grant recipient shall make a commitment to support ongoing hazardous substance research programs with budgeted institutional funds of at least $100,000 per year.

"(F) The grant recipient shall have an interdisciplinary staff with demonstrated expertise in hazardous substance management and research.

"(G) The grant recipient shall have a demonstrated ability to disseminate results of hazardous substance research and educational programs through an interdisciplinary continuing education program.

"(H) The projects which the grant recipient proposes to carry out under the grant are necessary and appropriate.

"(5) MAINTENANCE OF EFFORT.—No grant may be made under this subsection in any fiscal year unless the recipient of such grant enters into such agreements with the Administrator as the Administrator may require to ensure that such recipient will maintain its aggregate expenditures from all other sources for establishing and operating a regional hazardous substance research center and related research activities at or above the average level of such expenditures in its 2 fiscal years preceding the date of the enactment of this subsection.

"(6) FEDERAL SHARE.—The Federal share of a grant under this subsection shall not exceed 80 percent of the costs of establishing and operating the regional hazardous substance research center and related research activities carried out by the grant recipient.

Real property.

"(7) LIMITATION ON USE OF FUNDS.—No funds made available to carry out this subsection shall be used for acquisition of real property (including buildings) or construction of any building.

"(8) ADMINISTRATION THROUGH THE OFFICE OF THE ADMINISTRATOR.—Administrative responsibility for carrying out this subsection shall be in the Office of the Administrator.

"(9) EQUITABLE DISTRIBUTION OF FUNDS.—The Administrator shall allocate funds made available to carry out this subsection equitably among the regions of the United States.

"(10) TECHNOLOGY TRANSFER ACTIVITIES.—Not less than five percent of the funds made available to carry out this subsection for any fiscal year shall be available to carry out technology transfer activities.

"(e) REPORT TO CONGRESS.—At the time of the submission of the annual budget request to Congress, the Administrator shall submit to the appropriate committees of the House of Representatives and the Senate and to the advisory council established under subsection (a), a report on the progress of the research, development, and demonstration program authorized by subsection (b), including an evaluation of each demonstration project completed in the preceding fiscal year, findings with respect to the efficacy of such demonstrated technologies in achieving permanent and significant reductions in risk from hazardous wastes, the costs of such demonstration projects, and the potential applicability of, and projected costs for, such technologies at other hazardous substance sites.

"(f) Saving Provision.—Nothing in this section shall be construed to affect the provisions of the Solid Waste Disposal Act.

42 USC 6901 note.

"(g) Small Business Participation.—The Administrator shall ensure, to the maximum extent practicable, an adequate opportunity for small business participation in the program established by subsection (b).".

SEC. 210. POLLUTION LIABILITY INSURANCE.

CERCLA is amended by adding the following new title at the end thereof:

"TITLE IV—POLLUTION INSURANCE

42 USC 9671.

"SEC. 401. DEFINITIONS.

"As used in this title—

"(1) Insurance.—The term 'insurance' means primary insurance, excess insurance, reinsurance, surplus lines insurance, and any other arrangement for shifting and distributing risk which is determined to be insurance under applicable State or Federal law.

"(2) Pollution liability.—The term 'pollution liability' means liability for injuries arising from the release of hazardous substances or pollutants or contaminants.

"(3) Risk retention group.—The term 'risk retention group' means any corporation or other limited liability association taxable as a corporation, or as an insurance company, formed under the laws of any State—

"(A) whose primary activity consists of assuming and spreading all, or any portion, of the pollution liability of its group members;

"(B) which is organized for the primary purpose of conducting the activity described under subparagraph (A);

"(C) which is chartered or licensed as an insurance company and authorized to engage in the business of insurance under the laws of any State; and

"(D) which does not exclude any person from membership in the group solely to provide for members of such a group a competitive advantage over such a person.

"(4) Purchasing group.—The term 'purchasing group' means any group of persons which has as one of its purposes the purchase of pollution liability insurance on a group basis.

"(5) State.—The term 'State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession over which the United States has jurisdiction.

42 USC 9672.

"SEC. 402. STATE LAWS; SCOPE OF TITLE.

"(a) State Laws.—Nothing in this title shall be construed to affect either the tort law or the law governing the interpretation of insurance contracts of any State. The definitions of pollution liability and pollution liability insurance under any State law shall not be applied for the purposes of this title, including recognition or qualification of risk retention groups or purchasing groups.

"(b) Scope of Title.—The authority to offer or to provide insurance under this title shall be limited to coverage of pollution liability risks and this title does not authorize a risk retention group or purchasing group to provide coverage of any other line of insurance.

"SEC. 403. RISK RETENTION GROUPS.

42 USC 9673.

"(a) Exemption.—Except as provided in this section, a risk retention group shall be exempt from the following:

"(1) A State law, rule, or order which makes unlawful, or regulates, directly or indirectly, the operation of a risk retention group.

"(2) A State law, rule, or order which requires or permits a *risk retention group* to participate in any insurance insolvency guaranty association to which an insurer licensed in the State is required to belong.

"(3) A State law, rule, or order which requires any insurance policy issued to a risk retention group or any member of the group to be countersigned by an insurance agent or broker residing in the State.

"(4) A State law, rule, or order which otherwise discriminates against a risk retention group or any of its members.

"(b) Exceptions.—

"(1) State laws generally applicable.—Nothing in subsection (a) shall be construed to affect the applicability of State laws generally applicable to persons or corporations. The State in which a risk retention group is chartered may regulate the formation and operation of the group.

"(2) State regulations not subject to exemption.—Subsection (a) shall not apply to any State law which requires a risk retention group to do any of the following:

"(A) Comply with the unfair claim settlement practices law of the State.

"(B) Pay, on a nondiscriminatory basis, applicable premium and other taxes which are levied on admitted insurers and surplus line insurers, brokers, or policyholders under the laws of the State.

"(C) Participate, on a nondiscriminatory basis, in any mechanism established or authorized under the law of the State for the equitable apportionment among insurers of pollution liability insurance losses and expenses incurred on policies written through such mechanism.

"(D) Submit to the appropriate authority reports and other information required of licensed insurers under the laws of a State relating solely to pollution liability insurance losses and expenses.

"(E) Register with and designate the State insurance commissioner as its agent solely for the purpose of receiving service of legal documents or process.

"(F) Furnish, upon request, such commissioner a copy of any financial report submitted by the risk retention group to the commissioner of the chartering or licensing jurisdiction.

"(G) Submit to an examination by the State insurance commissioner in any State in which the group is doing business to determine the group's financial condition, if—

"(i) the commissioner has reason to believe the risk retention group is in a financially impaired condition; and

"(ii) the commissioner of the jurisdiction in which the group is chartered has not begun or has refused to initiate an examination of the group.

"(H) Comply with a lawful order issued in a delinquency proceeding commenced by the State insurance commissioner if the commissioner of the jurisdiction in which the group is chartered has failed to initiate such a proceeding after notice of a finding of financial impairment under subparagraph (G).

"(c) APPLICATION OF EXEMPTIONS.—The exemptions specified in subsection (a) apply to—

"(1) pollution liability insurance coverage provided by a risk retention group for—

"(A) such group; or

"(B) any person who is a member of such group;

"(2) the sale of pollution liability insurance coverage for a risk retention group; and

"(3) the provision of insurance related services or management services for a risk retention group or any member of such a group.

State and local governments. Discrimination, prohibition.

"(d) AGENTS OR BROKERS.—A State may require that a person acting, or offering to act, as an agent or broker for a risk retention group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

42 USC 9674.

"SEC. 404. PURCHASING GROUPS.

"(a) EXEMPTION.—Except as provided in this section, a purchasing group is exempt from the following:

"(1) A State law, rule, or order which prohibits the establishment of a purchasing group.

"(2) A State law, rule, or order which makes it unlawful for an insurer to provide or offer to provide insurance on a basis providing, to a purchasing group or its member, advantages, based on their loss and expense experience, not afforded to other persons with respect to rates, policy forms, coverages, or other matters.

"(3) A State law, rule, or order which prohibits a purchasing group or its members from purchasing insurance on the group basis described in paragraph (2) of this subsection.

"(4) A State law, rule, or order which prohibits a purchasing group from obtaining insurance on a group basis because the group has not been in existence for a minimum period of time or because any member has not belonged to the group for a minimum period of time.

"(5) A State law, rule, or order which requires that a purchasing group must have a minimum number of members, common ownership or affiliation, or a certain legal form.

"(6) A State law, rule, or order which requires that a certain percentage of a purchasing group must obtain insurance on a group basis.

"(7) A State law, rule, or order which requires that any insurance policy issued to a purchasing group or any members of the group be countersigned by an insurance agent or broker residing in that State.

"(8) A State law, rule, or order which otherwise discriminate against a purchasing group or any of its members.

"(b) APPLICATION OF EXEMPTIONS.—The exemptions specified in subsection (a) apply to the following:

"(1) Pollution liability insurance, and comprehensive general liability insurance which includes this coverage, provided to—

"(A) a purchasing group; or

"(B) any person who is a member of a purchasing group.

"(2) The sale of any one of the following to a purchasing group or a member of the group:

"(A) Pollution liability insurance and comprehensive general liability coverage.

"(B) Insurance related services.

"(C) Management services.

"(c) Agents or Brokers.—A State may require that a person acting, or offering to act, as an agent or broker for a purchasing group obtain a license from that State, except that a State may not impose any qualification or requirement which discriminates against a nonresident agent or broker.

State and local governments.
Discrimination, prohibition.

"SEC. 405. APPLICABILITY OF SECURITIES LAWS. 42 USC 9675.

"(a) Ownership Interests.—The ownership interests of members of a risk retention group shall be considered to be—

"(1) exempted securities for purposes of section 5 of the Securities Act of 1933 and for purposes of section 12 of the Securities Exchange Act of 1934; and

15 USC 77e.
15 USC 78*l*.

"(2) securities for purposes of the provisions of section 17 of the Securities Act of 1933 and the provisions of section 10 of the Securities Exchange Act of 1934.

15 USC 77q.
15 USC 78j.

"(b) Investment Company Act.—A risk retention group shall not be considered to be an investment company for purposes of the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.).

"(c) Blue Sky Law.—The ownership interests of members in a risk retention group shall not be considered securities for purposes of any State blue sky law.".

SEC. 211. DEPARTMENT OF DEFENSE ENVIRONMENTAL RESTORATION PROGRAM.

(a) In General.—(1) Title 10, United States Code, is amended—

(A) by redesignating section 2701 as section 2721; and

(B) by inserting after chapter 159 the following new chapter:

"CHAPTER 160—ENVIRONMENTAL RESTORATION

"Sec.
"2701. Environmental restoration program.
"2702. Research, development, and demonstration program.
"2703. Environmental restoration transfer account.
"2704. Commonly found unregulated hazardous substances.
"2705. Notice of environmental restoration activities.
"2706. Annual report to Congress.
"2707. Definitions.

"§ 2701. Environmental restoration program

10 USC 2701.

"(a) Environmental Restoration Program.—

"(1) In general.—The Secretary of Defense shall carry out a program of environmental restoration at facilities under the jurisdiction of the Secretary. The program shall be known as the 'Defense Environmental Restoration Program'.

"(2) Application of section 120 of CERCLA.—Activities of the program described in subsection (b)(1) shall be carried out subject to, and in a manner consistent with, section 120 (relating to Federal facilities) of the Comprehensive Environmental Re-

Ante, p. 1666.

sponse, Compensation, and Liability Act of 1980 (hereinafter in this chapter referred to as 'CERCLA') (42 U.S.C. 9601 et seq.).

"(3) CONSULTATION WITH EPA.—The program shall be carried out in consultation with the Administrator of the Environmental Protection Agency.

"(4) ADMINISTRATIVE OFFICE WITHIN OSD.—The Secretary shall identify an office within the Office of the Secretary which shall have responsibility for carrying out the program.

"(b) PROGRAM GOALS.—Goals of the program shall include the following:

"(1) The identification, investigation, research and development, and cleanup of contamination from hazardous substances, pollutants, and contaminants.

"(2) Correction of other environmental damage (such as detection and disposal of unexploded ordnance) which creates an imminent and substantial endangerment to the public health or welfare or to the environment.

"(3) Demolition and removal of unsafe buildings and structures, including buildings and structures of the Department of Defense at sites formerly used by or under the jurisdiction of the Secretary.

"(c) RESPONSIBILITY FOR RESPONSE ACTIONS.—

"(1) BASIC RESPONSIBILITY.—The Secretary shall carry out (in accordance with the provisions of this chapter and CERCLA) all response actions with respect to releases of hazardous substances from each of the following:

"(A) Each facility or site owned by, leased to, or otherwise possessed by the United States and under the jurisdiction of the Secretary.

"(B) Each facility or site which was under the jurisdiction of the Secretary and owned by, leased to, or otherwise possessed by the United States at the time of actions leading to contamination by hazardous substances.

"(C) Each vessel owned or operated by the Department of Defense.

"(2) OTHER RESPONSIBLE PARTIES.—Paragraph (1) shall not apply to a removal or remedial action if the Administrator has provided for response action by a potentially responsible person in accordance with section 122 of CERCLA (relating to settlements).

Waste disposal.

"(3) STATE FEES AND CHARGES.—The Secretary shall pay fees and charges imposed by State authorities for permit services for the disposal of hazardous substances on lands which are under the jurisdiction of the Secretary to the same extent that nongovernmental entities are required to pay fees and charges imposed by State authorities for permit services. The preceding sentence shall not apply with respect to a payment that is the responsibility of a lessee, contractor, or other private person.

"(d) SERVICES OF OTHER AGENCIES.—The Secretary may enter into agreements on a reimbursable basis with any other Federal agency, and on a reimbursable or other basis with any State or local government agency, to obtain the services of that agency to assist the Secretary in carrying out any of the Secretary's responsibilities under this section. Services which may be obtained under this subsection include the identification, investigation, and cleanup of any off-site contamination possibly resulting from the release of a hazardous substance or waste at a facility under the Secretary's jurisdiction.

"(e) RESPONSE ACTION CONTRACTORS.—The provisions of section 119 of CERCLA apply to response action contractors (as defined in that section) who carry out response actions under this section.

"§ 2702. Research, development, and demonstration program

10 USC 2702.

"(a) PROGRAM.—As part of the Defense Environmental Restoration Program, the Secretary of Defense shall carry out a program of research, development, and demonstration with respect to hazardous wastes. The program shall be carried out in consultation and cooperation with the Administrator and the advisory council established under section 311(a)(5) of CERCLA. The program shall include research, development, and demonstration with respect to each of the following:

Ante, p. 1708.

"(1) Means of reducing the quantities of hazardous waste generated by activities and facilities under the jurisdiction of the Secretary.

"(2) Methods of treatment, disposal, and management (including recycling and detoxifying) of hazardous waste of the types and quantities generated by current and former activities of the Secretary and facilities currently and formerly under the jurisdiction of the Secretary.

"(3) Identifying more cost-effective technologies for cleanup of hazardous substances.

"(4) Toxicological data collection and methodology on risk of exposure to hazardous waste generated by the Department of Defense.

"(5) The testing, evaluation, and field demonstration of any innovative technology, processes, equipment, or related training devices which may contribute to establishment of new methods to control, contain, and treat hazardous substances, to be carried out in consultation and cooperation with, and to the extent possible in the same manner and standards as, testing, evaluation, and field demonstration carried out by the Administrator, acting through the office of technology demonstration of the Environmental Protection Agency.

"(b) SPECIAL PERMIT.—The Administrator may use the authorities of section 3005(g) of the Solid Waste Disposal Act (42 U.S.C. 6925(g)) to issue a permit for testing and evaluation which receives support under this section.

"(c) CONTRACTS AND GRANTS.—The Secretary may enter into contracts and cooperative agreements with, and make grants to, universities, public and private profit and nonprofit entities, and other persons to carry out the research, development, and demonstration authorized under this section. Such contracts may be entered into only to the extent that appropriated funds are available for that purpose.

"(d) INFORMATION COLLECTION AND DISSEMINATION.—

"(1) IN GENERAL.—The Secretary shall develop, collect, evaluate, and disseminate information related to the use (or potential use) of the treatment, disposal, and management technologies that are researched, developed, and demonstrated under this section.

"(2) ROLE OF EPA.—The functions of the Secretary under paragraph (1) shall be carried out in cooperation and consultation with the Administrator. To the extent appropriate and agreed upon by the Administrator and the Secretary, the Administrator shall evaluate and disseminate such information through the office of technology demonstration of the Environmental Protection Agency.

10 USC 2703.

"§ 2703. Environmental restoration transfer account

"(a) Establishment of Transfer Account.—

"(1) Establishment.—There is hereby established in the Department of Defense an account to be known as the 'Defense Environmental Restoration Account' (hereinafter in this section referred to as the 'transfer account'). All sums appropriated to carry out the functions of the Secretary of Defense relating to environmental restoration under this chapter or any other provision of law shall be appropriated to the transfer account.

"(2) Requirement of authorization of appropriations.—No funds may be appropriated to the transfer account unless such sums have been specifically authorized by law.

"(3) Availability of funds in transfer account.—Amounts appropriated to the transfer account shall remain available until transferred under subsection (b).

"(b) Authority To Transfer to Other DOD Accounts.—Amounts in the transfer account shall be available to be transferred by the Secretary to any appropriation account or fund of the Department for obligation from that account or fund. Funds so transferred shall be merged with and available for the same purposes and for the same period as the account or fund to which transferred.

"(c) Obligation of Transferred Amounts.—Funds transferred under subsection (b) may only be obligated or expended from the account or fund to which transferred in order to carry out the functions of the Secretary under this chapter or environmental restoration functions under any other provision of law.

President of U.S.

"(d) Budget Reports.—In proposing the Budget for any fiscal year pursuant to section 1105 of title 31, the President shall set forth separately the amount requested for environmental restoration programs of the Department of Defense under this chapter or any other Act.

"(e) Amounts Recovered Under CERCLA.—Amounts recovered under section 107 of CERCLA for response actions of the Secretary shall be credited to the transfer account.

"§ 2704. Commonly found unregulated hazardous substances

"(a) Notice to HHS.—

"(1) In general.—The Secretary of Defense shall notify the Secretary of Health and Human Services of the hazardous substances which the Secretary of Defense determines to be the most commonly found unregulated hazardous substances at facilities under the Secretary's jurisdiction. The notification shall be of not less than the 25 most widely used such substances.

"(2) Definition.—In this subsection, the term 'unregulated hazardous substance' means a hazardous substance—

"(A) for which no standard, requirement, criteria, or limitation is in effect under the Toxic Substances Control Act, the Safe Drinking Water Act, the Clean Air Act, or the Clean Water Act; and

15 USC 2601 note, 42 USC 201 note, 42 USC 7401 note. 33 USC 1251 note.

"(B) for which no water quality criteria are in effect under any provision of the Clean Water Act.

"(b) TOXICOLOGICAL PROFILES.—The Secretary of Health and Human Services shall take such steps as necessary to ensure the timely preparation of toxicological profiles of each of the substances of which the Secretary is notified under subsection (a). The profiles of such substances shall include each of the following:

"(1) The examination, summary, and interpretation of available toxicological information and epidemiologic evaluations on a hazardous substance in order to ascertain the levels of significant human exposure for the substance and the associated acute, subacute, and chronic health effects.

"(2) A determination of whether adequate information on the health effects of each substance is available or in the process of development to determine levels of exposure which present a significant risk to human health of acute, subacute, and chronic health effects.

"(3) Where appropriate, toxicological testing directed toward determining the maximum exposure level of a hazardous substance that is safe for humans.

"(c) DOD SUPPORT.—The Secretary of Defense shall transfer to the Secretary of Health and Human Services such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary (1) for the preparation of toxicological profiles under subsection (b) or (2) for other health related activities under section 104(i) of CERCLA. The Secretary of Defense and the Secretary of Health and Human Services shall enter into a memorandum of understanding regarding the manner in which this section shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this section.

Ante, p. 1636.

"(d) EPA HEALTH ADVISORIES.—

"(1) PREPARATION.—At the request of the Secretary of Defense, the Administrator shall, in a timely manner, prepare health advisories on hazardous substances. Such an advisory shall be prepared on each hazardous substance—

"(A) for which no advisory exists;

"(B) which is found to threaten drinking water; and

"(C) which is emanating from a facility under the jurisdiction of the Secretary.

"(2) CONTENT OF HEALTH ADVISORIES.—Such health advisories shall provide specific advice on the levels of contaminants in drinking water at which adverse health effects would not be anticipated and which include a margin of safety so as to protect the most sensitive members of the population at risk. The advisories shall provide data on one-day, 10-day, and longer-term exposure periods where available toxicological data exist.

"(3) DOD SUPPORT FOR HEALTH ADVISORIES.—The Secretary of Defense shall transfer to the Administrator such toxicological data, such sums from amounts appropriated to the Department of Defense, and such personnel of the Department of Defense as may be necessary for the preparation of such health advisories. The Secretary and the Administrator shall enter into a memorandum of understanding regarding the manner in which this subsection shall be carried out, including the manner for transferring funds and personnel and for coordination of activities under this subsection.

Ante, p. 1636.

"(e) CROSS REFERENCE.—Section 104(i) of CERCLA applies to facilities under the jurisdiction of the Secretary of Defense in the manner prescribed in that section.

"(f) FUNCTIONS OF HHS TO BE CARRIED OUT THROUGH ATSDR.—The functions of the Secretary of Health and Human Services under this section shall be carried out through the Administrator of the Agency of Toxic Substances and Disease Registry of the Department of Health and Human Services established under section 104(i) of CERCLA.

10 USC 2705.

"§ 2705. Notice of environmental restoration activities

State and local governments.

"(a) EXPEDITED NOTICE.—The Secretary of Defense shall take such actions as necessary to ensure that the regional offices of the Environmental Protection Agency and appropriate State and local authorities for the State in which a facility under the Secretary's jurisdiction is located receive prompt notice of each of the following:

"(1) The discovery of releases or threatened releases of hazardous substances at the facility.

"(2) The extent of the threat to public health and the environment which may be associated with any such release or threatened release.

"(3) Proposals made by the Secretary to carry out response actions with respect to any such release or threatened release.

"(4) The initiation of any response action with respect to such release or threatened release and the commencement of each distinct phase of such activities.

"(b) COMMENT BY EPA AND STATE AND LOCAL AUTHORITIES.—

"(1) RELEASE NOTICES.—The Secretary shall ensure that the Administrator of the Environmental Protection Agency and appropriate State and local officials have an adequate opportunity to comment on notices under paragraphs (1) and (2) of subsection (a).

"(2) PROPOSALS FOR RESPONSE ACTIONS.—The Secretary shall require that an adequate opportunity for timely review and comment be afforded to the Administrator and to appropriate State and local officials after making a proposal referred to in subsection (a)(3) and before undertaking an activity or action referred to in subsection (a)(4). The preceding sentence does not apply if the action is an emergency removal taken because of imminent and substantial endangerment to human health or the environment and consultation would be impractical.

"(c) TECHNICAL REVIEW COMMITTEE.—Whenever possible and practical, the Secretary shall establish a technical review committee to review and comment on Department of Defense actions and proposed actions with respect to releases or threatened releases of hazardous substances at installations. Members of any such committee shall include at least one representative of the Secretary, the Administrator, and appropriate State and local authorities and shall include a public representative of the community involved.

"§ 2706. Annual report to Congress

"(a) REPORT ON PROGRESS IN IMPLEMENTATION.—The Secretary of Defense shall submit to Congress a report each fiscal year describing the progress made by the Secretary during the preceding fiscal year in implementing the requirements of this chapter.

"(b) MATTERS TO BE INCLUDED.—Each such report shall include the following:

"(1) A statement for each installation under the jurisdiction of the Secretary of the number of individual facilities at which a hazardous substance has been identified.

"(2) The status of response actions contemplated or undertaken at each such facility.

"(3) The specific cost estimates and budgetary proposals involving response actions contemplated or undertaken at each such facility.

"(4) A report on progress on conducting response actions at facilities other than facilities on the National Priorities List.

"§ 2707. Definitions 10 USC 2707.

"In this chapter:

"(1) The terms 'environment', 'facility', 'hazardous substance', 'person', 'release', 'removal', 'response', 'disposal', and 'hazardous waste' have the meanings given those terms in section 101 of CERCLA (42 U.S.C. 9601).

"(2) The term 'Administrator' means the Administrator of the Environmental Protection Agency.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by inserting after the item relating to chapter 159 the following new item:

"160. Environmental Restoration .... 2701".

(3) The table of sections at the beginning of chapter 161 of such title is amended to reflect the redesignation made by paragraph (1)(A).

(b) MILITARY CONSTRUCTION PROJECTS.—(1) Chapter 169 of title 10, United States Code, is amended by inserting at the end of subchapter I the following new section:

"§ 2810. Construction projects for environmental response actions 10 USC 2810.

"(a) Subject to subsection (b), the Secretary of Defense may carry out a military construction project not otherwise authorized by law (or may authorize the Secretary of a military department to carry out such a project) if the Secretary of Defense determines that the project is necessary to carry out a response action under chapter 160 of this title or under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

"(b)(1) When a decision is made to carry out a military construction project under this section, the Secretary of Defense shall submit a report in writing to the appropriate committees of Congress on that decision. Each such report shall include— Reports.

"(A) the justification for the project and the current estimate of the cost of the project; and

"(B) the justification for carrying out the project under this section.

"(2) The project may then be carried out only after the end of the 21-day period beginning on the date the notification is received by such committees.

"(c) In this section, the term 'response action' has the meaning given that term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).".

(2) The table of sections at the beginning of subchapter I of such chapter is amended by adding at the end thereof the following new item:

"2810. Construction projects for environmental response actions.".

10 USC 2703 note.

(c) EFFECTIVE DATE.—Section 2703(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to funds appropriated for fiscal years beginning after September 30, 1986.

SEC. 212. REPORT AND OVERSIGHT REQUIREMENTS.

Ante, p. 1707. 42 USC 9651.

Section 301 of CERCLA is amended by adding at the end thereof the following new subsection:

"(h) REPORT AND OVERSIGHT REQUIREMENTS.—

"(1) ANNUAL REPORT BY EPA.—On January 1 of each year the Administrator of the Environmental Protection Agency shall submit an annual report to Congress of such Agency on the progress achieved in implementing this Act during the preceding fiscal year. In addition such report shall specifically include each of the following:

"(A) A detailed description of each feasibility study carried out at a facility under title I of this Act.

"(B) The status and estimated date of completion of each such study.

"(C) Notice of each such study which will not meet a previously published schedule for completion and the new estimated date for completion.

"(D) An evaluation of newly developed feasible and achievable permanent treatment technologies.

"(E) Progress made in reducing the number of facilities subject to review under section 121(c).

"(F) A report on the status of all remedial and enforcement actions undertaken during the prior fiscal year, including a comparison to remedial and enforcement actions undertaken in prior fiscal years.

"(G) An estimate of the amount of resources, including the number of work years or personnel, which would be necessary for each department, agency, or instrumentality which is carrying out any activities of this Act to complete the implementation of all duties vested in the department, agency, or instrumentality under this Act.

5 USC app.

"(2) REVIEW BY INSPECTOR GENERAL.—Consistent with the authorities of the Inspector General Act of 1978 the Inspector General of the Environmental Protection Agency shall review any report submitted under paragraph (1) related to EPA's activities for reasonableness and accuracy and submit to Congress, as a part of such report a report on the results of such review.

"(3) CONGRESSIONAL OVERSIGHT.—After receiving the reports under paragraphs (1) and (2) of this subsection in any calendar year, the appropriate authorizing committees of Congress shall conduct oversight hearings to ensure that this Act is being implemented according to the purposes of this Act and congressional intent in enacting this Act.".

SEC. 213. LOVE CANAL PROPERTY ACQUISITION.

42 USC 9661 note.

(a) CONGRESSIONAL FINDINGS.—

(1) The area known as Love Canal located in the city of Niagara Falls and the town of Wheatfield, New York, was the first toxic waste site to receive national attention. As a result of that attention Congress investigated the problems associated with toxic waste sites and enacted CERCLA to deal with these problems. New York.

(2) Because Love Canal came to the Nation's attention prior to the passage of CERCLA and because the fund under CERCLA was not available to compensate for all of the hardships endured by the citizens in the area, Congress has determined that special provisions are required. These provisions do not affect the lawfulness, implementation, or selection of any other response actions at Love Canal or at any other facilities.

(b) Amendment of Superfund.—Title III of CERCLA is amended by adding the following new section at the end thereof:

"SEC. 312. LOVE CANAL PROPERTY ACQUISITION.

New York.
42 USC 9661.
Grants.

"(a) Acquisition of Property in Emergency Declaration Area.—The Administrator of the Environmental Protection Agency (hereinafter referred to as the 'Administrator') may make grants not to exceed $2,500,000 to the State of New York (or to any duly constituted public agency or authority thereof) for purposes of acquisition of private property in the Love Canal Emergency Declaration Area. Such acquisition shall include (but shall not be limited to) all private property within the Emergency Declaration Area, including non-owner occupied residential properties, commercial, industrial, public, religious, non-profit, and vacant properties.

"(b) Procedures for Acquisition.—No property shall be acquired pursuant to this section unless the property owner voluntarily agrees to such acquisition. Compensation for any property acquired pursuant to this section shall be based upon the fair market value of the property as it existed prior to the emergency declaration. Valuation procedures for property acquired with funds provided under this section shall be in accordance with those set forth in the agreement entered into between the New York State Disaster Preparedness Commission and the Love Canal Revitalization Agency on October 9, 1980.

"(c) State Ownership.—The Administrator shall not provide any funds under this section for the acquisition of any properties pursuant to this section unless a public agency or authority of the State of New York first enters into a cooperative agreement with the Administrator providing assurances deemed adequate by the Administrator that the State or an agency created under the laws of the State shall take title to the properties to be so acquired. Contracts.

"(d) Maintenance of Property.—The Administrator shall enter into a cooperative agreement with an appropriate public agency or authority of the State of New York under which the Administrator shall maintain or arrange for the maintenance of all properties within the Emergency Declaration Area that have been acquired by any public agency or authority of the State. Ninety (90) percent of the costs of such maintenance shall be paid by the Administrator. The remaining portion of such costs shall be paid by the State (unless a credit is available under section 104(c)). The Administrator is authorized, in his discretion, to provide technical assistance to any public agency or authority of the State of New York in order to implement the recommendations of the habitability and land-use Contracts. *Ante*, p. 1619.

study in order to put the land within the Emergency Declaration Area to its best use.

"(e) HABITABILITY AND LAND USE STUDY.—The Administrator shall conduct or cause to be conducted a habitability and land-use study. The study shall—

"(1) assess the risks associated with inhabiting of the Love Canal Emergency Declaration Area;

"(2) compare the level of hazardous waste contamination in that Area to that present in other comparable communities; and

"(3) assess the potential uses of the land within the Emergency Declaration Area, including but not limited to residential, industrial, commercial and recreational, and the risks associated with such potential uses.

The Administrator shall publish the findings of such study and shall work with the State of New York to develop recommendations based upon the results of such study.

Ante, pp. 1642, 1706, 1696.

"(f) FUNDING.—For purposes of section 111 **[and 221(c) of this Act]**, the expenditures authorized by this section shall be treated as a cost specified in section 111(c).

"(g) RESPONSE.—The provisions of this section shall not affect the implementation of other response actions within the Emergency Declaration Area that the Administrator has determined (before enactment of this section) to be necessary to protect the public health or welfare or the environment.

"(h) DEFINITIONS.—For purposes of this section:

"(1) EMERGENCY DECLARATION AREA.—The terms 'Emergency Declaration Area' and 'Love Canal Emergency Declaration Area' mean the Emergency Declaration Area as defined in section 950, paragraph (2) of the General Municipal Law of the State of New York, Chapter 259, Laws of 1980, as in effect on the date of the enactment of this section.

"(2) PRIVATE PROPERTY.—As used in subsection (a), the term 'private property' means all property which is not owned by a department, agency, or instrumentality of—

"(A) the United States, or

"(B) the State of New York (or any public agency or authority thereof).".

Public Law 99-502
99th Congress

An Act

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to promote technology transfer by authorizing Government-operated laboratories to enter into cooperative research agreements and by establishing a Federal Laboratory Consortium for Technology Transfer within the National Bureau of Standards, and for other purposes.

Oct. 20, 1986
[H.R. 3773]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Technology Transfer Act of 1986.
Commerce and trade.
Government organization and employees.
15 USC 3701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Technology Transfer Act of 1986".

SEC. 2. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

15 USC 3701 note.
15 USC 3711-3714.
15 USC 3710a.

The Stevenson-Wydler Technology Innovation Act of 1980 is amended by redesignating sections 12 through 15 as sections 16 through 19, and by inserting immediately after section 11 the following:

"SEC. 12. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

"(a) General Authority.—Each Federal agency may permit the director of any of its Government-operated Federal laboratories—

State and local governments.
Business and industry.
Schools and colleges.

"(1) to enter into cooperative research and development agreements on behalf of such agency (subject to subsection (c) of this section) with other Federal agencies; units of State or local government; industrial organizations (including corporations, partnerships, and limited partnerships, and industrial development organizations); public and private foundations; nonprofit organizations (including universities); or other persons (including licensees of inventions owned by the Federal agency); and

"(2) to negotiate licensing agreements under section 207 of title 35, United States Code, or under other authorities for Government-owned inventions made at the laboratory and other inventions of Federal employees that may be voluntarily assigned to the Government.

"(b) Enumerated Authority.—Under agreements entered into pursuant to subsection (a)(1), a Government-operated Federal laboratory may (subject to subsection (c) of this section)—

"(1) accept, retain, and use funds, personnel, services, and property from collaborating parties and provide personnel, services, and property to collaborating parties;

Patents and trademarks.

"(2) grant or agree to grant in advance, to a collaborating party, patent licenses or assignments, or options thereto, in any invention made in whole or in part by a Federal employee under the agreement, retaining a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government and such other rights as the Federal laboratory deems appropriate; and

"(3) waive, subject to reservation by the Government of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government, in advance, in whole or in part, any right of ownership which the Federal Government may have to any subject invention made under the agreement by a collaborating party or employee of a collaborating party; and

"(4) to the extent consistent with any applicable agency requirements and standards of conduct, permit employees or former employees of the laboratory to participate in efforts to commercialize inventions they made while in the service of the United States.

Regulations.

"(c) CONTRACT CONSIDERATIONS.—(1) A Federal agency may issue regulations on suitable procedures for implementing the provisions of this section; however, implementation of this section shall not be delayed until issuance of such regulations.

"(2) The agency in permitting a Federal laboratory to enter into agreements under this section shall be guided by the purposes of this Act.

"(3)(A) Any agency using the authority given it under subsection (a) shall review employee standards of conduct for resolving potential conflicts of interest to make sure they adequately establish guidelines for situations likely to arise through the use of this authority, including but not limited to cases where present or former employees or their partners negotiate licenses or assignments of titles to inventions or negotiate cooperative research and development agreements with Federal agencies (including the agency with which the employee involved is or was formerly employed).

"(B) If, in implementing subparagraph (A), an agency is unable to resolve potential conflicts of interest within its current statutory framework, it shall propose necessary statutory changes to be forwarded to its authorizing committees in Congress.

"(4) The laboratory director in deciding what cooperative research and development agreements to enter into shall—

Small business.

"(A) give special consideration to small business firms, and consortia involving small business firms; and

Business and industry.
International agreements.

"(B) give preference to business units located in the United States which agree that products embodying inventions made under the cooperative research and development agreement or produced through the use of such inventions will be manufactured substantially in the United States and, in the case of any industrial organization or other person subject to the control of a foreign company or government, as appropriate, take into consideration whether or not such foreign government permits United States agencies, organizations, or other persons to enter into cooperative research and development agreements and licensing agreements.

"(5)(A) If the head of the agency or his designee desires an opportunity to disapprove or require the modification of any such agreement, the agreement shall provide a 30-day period within which such action must be taken beginning on the date the agreement is presented to him or her by the head of the laboratory concerned.

"(B) In any case in which the head of an agency or his designee disapproves or requires the modification of an agreement presented under this section, the head of the agency or such designee shall transmit a written explanation of such disapproval or modification to the head of the laboratory concerned.

"(6) Each agency shall maintain a record of all agreements entered into under this section.

Records.

"(d) DEFINITION.—As used in this section—

"(1) the term 'cooperative research and development agreement' means any agreement between one or more Federal laboratories and one or more non-Federal parties under which the Government, through its laboratories, provides personnel, services, facilities, equipment, or other resources with or without reimbursement (but not funds to non-Federal parties) and the non-Federal parties provide funds, personnel, services, facilities, equipment, or other resources toward the conduct of specified research or development efforts which are consistent with the missions of the laboratory; except that such term does not include a procurement contract or cooperative agreement as those terms are used in sections 6303, 6304, and 6305 of title 31, United States Code; and

"(2) the term 'laboratory' means a facility or group of facilities owned, leased, or otherwise used by a Federal agency, a substantial purpose of which is the performance of research, development, or engineering by employees of the Federal Government.

"(e) DETERMINATION OF LABORATORY MISSIONS.—For purposes of this section, an agency shall make separate determinations of the mission or missions of each of its laboratories.

"(f) RELATIONSHIP TO OTHER LAWS.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 3. ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710) is amended—

Post, p. 1791.

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"(e) ESTABLISHMENT OF FEDERAL LABORATORY CONSORTIUM FOR TECHNOLOGY TRANSFER.—(1) There is hereby established the Federal Laboratory Consortium for Technology Transfer (hereinafter referred to as the 'Consortium') which, in cooperation with Federal Laboratories and the private sector, shall—

"(A) develop and (with the consent of the Federal laboratory concerned) administer techniques, training courses, and materials concerning technology transfer to increase the awareness of Federal laboratory employees regarding the commercial potential of laboratory technology and innovations;

"(B) furnish advice and assistance requested by Federal agencies and laboratories for use in their technology transfer programs (including the planning of seminars for small business and other industry);

"(C) provide a clearinghouse for requests, received at the laboratory level, for technical assistance from States and units of local governments, businesses, industrial development organizations, not-for-profit organizations including universities, Federal agencies and laboratories, and other persons, and—

"(i) to the extent that such requests can be responded to with published information available to the National Technical Information Service, refer such requests to that Service, and

"(ii) otherwise refer these requests to the appropriate Federal laboratories and agencies;

"(D) facilitate communication and coordination between Offices of Research and Technology Applications of Federal laboratories;

"(E) utilize (with the consent of the agency involved) the expertise and services of the National Science Foundation, the Department of Commerce, the National Aeronautics and Space Administration, and other Federal agencies, as necessary;

"(F) with the consent of any Federal laboratory, facilitate the use by such laboratory of appropriate technology transfer mechanisms such as personnel exchanges and computer-based systems;

"(G) with the consent of any Federal laboratory, assist such laboratory to establish programs using technical volunteers to provide technical assistance to communities related to such laboratory;

"(H) facilitate communication and cooperation between Offices of Research and Technology Applications of Federal laboratories and regional, State, and local technology transfer organizations;

"(I) when requested, assist colleges or universities, businesses, nonprofit organizations, State or local governments, or regional organizations to establish programs to stimulate research and to encourage technology transfer in such areas as technology program development, curriculum design, long-term research planning, personnel needs projections, and productivity assessments; and

"(J) seek advice in each Federal laboratory consortium region from representatives of State and local governments, large and small business, universities, and other appropriate persons on the effectiveness of the program (and any such advice shall be provided at no expense to the Government).

"(2) The membership of the Consortium shall consist of the Federal laboratories described in clause (1) of subsection (b) and such other laboratories as may choose to join the Consortium. The representatives to the Consortium shall include a senior staff member of each Federal laboratory which is a member of the Consortium and a representative appointed from each Federal agency with one or more member laboratories.

"(3) The representatives to the Consortium shall elect a Chairman of the Consortium.

"(4) The Director of the National Bureau of Standards shall provide the Consortium, on a reimbursable basis, with administrative services, such as office space, personnel, and support services of the Bureau, as requested by the Consortium and approved by such Director.

"(5) Each Federal laboratory or agency shall transfer technology directly to users or representatives of users, and shall not transfer technology directly to the Consortium. Each Federal laboratory shall conduct and transfer technology only in accordance with the practices and policies of the Federal agency which owns, leases, or otherwise uses such Federal laboratory.

Reports.

"(6) Not later than one year after the date of the enactment of this subsection, and every year thereafter, the Chairman of the Consortium shall submit a report to the President, to the appropriate authorization and appropriation committees of both Houses of the Congress, and to each agency with respect to which a transfer of funding is made (for the fiscal year or years involved) under paragraph (7), concerning the activities of the Consortium and the expenditures made by it under this subsection during the year for which the report is made.

"(7)(A) Subject to subparagraph (B), an amount equal to 0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by the laboratories of such agency for a fiscal year referred to in subparagraph (B)(ii) shall be transferred by such agency to the National Bureau of Standards at the beginning of the fiscal year involved. Amounts so transferred shall be provided by the Bureau to the Consortium for the purpose of carrying out activities of the Consortium under this subsection.

"(B) A transfer shall be made by any Federal agency under subparagraph (A), for any fiscal year, only if—

"(i) the amount so transferred by that agency (as determined under such subparagraph) would exceed $10,000; and

"(ii) such transfer is made with respect to the fiscal year 1987, 1988, 1989, 1990, or 1991.

"(C) The heads of Federal agencies and their designees, and the directors of Federal laboratories, may provide such additional support for operations of the Consortium as they deem appropriate.

"(8)(A) The Consortium shall use 5 percent of the funds provided in paragraph (7)(A) to establish demonstration projects in technology transfer. To carry out such projects, the Consortium may arrange for grants or awards to, or enter into agreements with, nonprofit State, local, or private organizations or entities whose primary purposes are to facilitate cooperative research between the Federal laboratories and organizations not associated with the Federal laboratories, to transfer technology from the Federal laboratories, and to advance State and local economic activity.

"(B) The demonstration projects established under subparagraph (A) shall serve as model programs. Such projects shall be designed to develop programs and mechanisms for technology transfer from the Federal laboratories which may be utilized by the States and which will enhance Federal, State, and local programs for the transfer of technology.

"(C) Application for such grants, awards, or agreements shall be in such form and contain such information as the Consortium or its designee shall specify.

"(D) Any person who receives or utilizes any proceeds of a grant or award made, or agreement entered into, under this paragraph shall keep such records as the Consortium or its designee shall determine are necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition of such proceeds and the total cost of the project in connection with which such proceeds were used.". Records.

SEC. 4. UTILIZATION OF FEDERAL TECHNOLOGY.

(a) Responsibility for Technology Transfer.—Section 11(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(a)) is amended—

(1) by inserting "(1)" after "Policy.—"; and

(2) by adding at the end thereof the following new paragraphs:

(2) Technology transfer, consistent with mission responsibilities, is a responsibility of each laboratory science and engineering professional.

"(3) Each laboratory director shall ensure that efforts to transfer technology are considered positively in laboratory job descriptions, employee promotion policies, and evaluation of the job performance of scientists and engineers in the laboratory.".

(b) Research and Technology Applications Offices.—(1) Section 11(b) of such Act (15 U.S.C. 3710(b)) is amended—

(A) by striking out "a total annual budget exceeding $20,000,000 shall provide at least one professional individual full-time" and inserting in lieu thereof "200 or more full-time equivalent scientific, engineering, and related technical positions shall provide one or more full-time equivalent positions";

(B) by inserting immediately before the next to last sentence the following new sentence: "Furthermore, individuals filling positions in an Office of Research and Technology Applications shall be included in the overall laboratory/agency management development program so as to ensure that highly competent technical managers are full participants in the technology transfer process.";

(C) by striking out "requirements set forth in (1) and/or (2) of this subsection" in the next to last sentence and inserting in lieu thereof "requirement set forth in clause (2) of the preceding sentence"; and

(D) by striking out "either requirement (1) or (2)" in the last sentence and inserting in lieu thereof "such requirement".

(2) Section 11(c) of such Act (15 U.S.C. 3710(c)) is amended—

(A) by striking out paragraph (1) and inserting in lieu thereof the following:

"(1) to prepare application assessments for selected research and development projects in which that laboratory is engaged and which in the opinion of the laboratory may have potential commercial applications;";

(B) by striking out "the Center for the Utilization of Federal Technology" in paragraph (3) and inserting in lieu thereof "the National Technical Information Service, the Federal Laboratory Consortium for Technology Transfer,", and by striking out "and" after the semicolon;

(C) by striking out "in response to requests from State and local government officials." in paragraph (4) and inserting in lieu thereof "to State and local government officials; and"; and

(D) by inserting immediately after paragraph (4) the following new paragraph:

State and local governments.

"(5) to participate, where feasible, in regional, State, and local programs designed to facilitate or stimulate the transfer of technology for the benefit of the region, State, or local jurisdiction in which the Federal laboratory is located."

(c) Dissemination of Technical Information.—Section 11(d) of such Act (15 U.S.C. 3710(d)) is amended—

(1) by striking out "(d)" and all that follows down through "shall—" and inserting in lieu thereof the following:

(d) Dissemination of Technical Information.—The National Technical Information Service shall—";

(2) by striking out paragraph (2);

(3) by striking out "existing" in paragraph (3), and redesignating such paragraph as paragraph (2);

(4) by striking out paragraph (4) and inserting in lieu thereof the following:

"(3) receive requests for technical assistance from State and local governments, respond to such requests with published information available to the Service, and refer such requests to the Federal Laboratory Consortium for Technology Transfer to the extent that such requests require a response involving more than the published information available to the Service;"; State and local governments.

(5) by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively; and

(6) by striking out "(c)(4)" in paragraph (4) as so redesignated and inserting in lieu thereof "(c)(3)".

(d) AGENCY REPORTING.—Section 11(f) of such Act (15 U.S.C. 3710(e)) (as redesignated by section 3(1) of this Act) is amended—

(1) by striking out "prepare biennially a report summarizing the activities" in the first sentence and inserting in lieu thereof "report annually to the Congress, as part of the agency's annual budget submission, on the activities"; and Reports.

(2) by striking out the second sentence.

SEC. 5. FUNCTIONS OF THE SECRETARY OF COMMERCE.

15 USC 3710.

Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by adding at the end thereof the following new subsection:

"(g) FUNCTIONS OF THE SECRETARY.—(1) The Secretary, in consultation with other Federal agencies, may—

"(A) make available to interested agencies the expertise of the Department of Commerce regarding the commercial potential of inventions and methods and options for commercialization which are available to the Federal laboratories, including research and development limited partnerships;

"(B) develop and disseminate to appropriate agency and laboratory personnel model provisions for use on a voluntary basis in cooperative research and development arrangements; and

"(C) furnish advice and assistance, upon request, to Federal agencies concerning their cooperative research and development programs and projects.

"(2) Two years after the date of the enactment of this subsection and every two years thereafter, the Secretary shall submit a summary report to the President and the Congress on the use by the agencies and the Secretary of the authorities specified in this Act. Other Federal agencies shall cooperate in the report's preparation. Reports.

"(3) Not later than one year after the date of the enactment of the Federal Technology Transfer Act of 1986, the Secretary shall submit to the President and the Congress a report regarding— Reports.

"(A) any copyright provisions or other types of barriers which tend to restrict or limit the transfer of federally funded computer software to the private sector and to State and local governments, and agencies of such State and local governments; and Copyrights. State and local governments.

"(B) the feasibility and cost of compiling and maintaining a current and comprehensive inventory of all federally funded training software.".

SEC. 6. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OR FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 12 the following new section:

15 USC 3710b.

"SEC. 13. REWARDS FOR SCIENTIFIC, ENGINEERING, AND TECHNICAL PERSONNEL OF FEDERAL AGENCIES.

"The head of each Federal agency that is making expenditures at a rate of more than $50,000,000 per fiscal year for research and development in its Government-operated laboratories shall use the appropriate statutory authority to develop and implement a cash awards program to reward its scientific, engineering, and technical personnel for—

"(1) inventions, innovations, or other outstanding scientific or technological contributions of value to the United States due to commercial application or due to contributions to missions of the Federal agency or the Federal government, or

"(2) exemplary activities that promote the domestic transfer of science and technology development within the Federal Government and result in utilization of such science and technology by American industry or business, universities, State or local governments, or other non-Federal parties.".

SEC. 7. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 13 the following new section:

15 USC 3710c.

"SEC. 14. DISTRIBUTION OF ROYALTIES RECEIVED BY FEDERAL AGENCIES.

"(a) IN GENERAL.—(1) Except as provided in paragraphs (2) and (4), any royalties or other income received by a Federal agency from the licensing or assignment of inventions under agreements entered into under section 12, and inventions of Government-operated Federal laboratories licensed under section 207 of title 35, United States Code, or under any other provision of law, shall be retained by the agency whose laboratory produced the invention and shall be disposed of as follows:

"(A)(i) The head of the agency or his designee shall pay at least 15 percent of the royalties or other income the agency receives on account of any invention to the inventor (or co-inventors) if the inventor (or each such co-inventor) was an employee of the agency at the time the invention was made. This clause shall take effect on the date of the enactment of this section unless the agency publishes a notice in the Federal Register within 90 days of such date indicating its election to file a Notice of Proposed Rulemaking pursuant to clause (ii).

Effective date. Federal Register, publication.

Regulations.

"(ii) An agency may promulgate, in accordance with section 553 of title 5, United States Code, regulations providing for an alternative program for sharing royalties with inventors who were employed by the agency at the time the invention was made and whose names appear on licensed inventions. Such regulations must—

"(I) guarantee a fixed minimum payment to each such inventor, each year that the agency receives royalties from that inventor's invention;

"(II) provide a percentage royalty share to each such inventor, each year that the agency receives royalties from that inventor's invention in excess of a threshold amount;

"(III) provide that total payments to all such inventors shall exceed 15 percent of total agency royalties in any given fiscal year; and

"(IV) provide appropriate incentives from royalties for those laboratory employees who contribute substantially to the technical development of a licensed invention between the time of the filing of the patent application and the licensing of the invention.

Regulations.

"(iii) An agency that has published its intention to promulgate regulations under clause (ii) may elect not to pay inventors under clause (i) until the expiration of two years after the date of the enactment of this Act or until the date of the promulgation of such regulations, whichever is earlier. If an agency makes such an election and after two years the regulations have not been promulgated, the agency shall make payments (in accordance with clause (i)) of at least 15 percent of the royalties involved, retroactive to the date of the enactment of this Act. If promulgation of the regulations occurs within two years after the date of the enactment of this Act, payments shall be made in accordance with such regulations, retroactive to the date of the enactment of this Act. The agency shall retain its royalties until the inventor's portion is paid under either clause (i) or (ii). Such royalties shall not be transferred to the agency's Government-operated laboratories under subparagraph (B) and shall not revert to the Treasury pursuant to paragraph (2) as a result of any delay caused by rulemaking under this subparagraph.

"(B) The balance of the royalties or other income shall be transferred by the agency to its Government-operated laboratories, with the majority share of the royalties or other income from any invention going to the laboratory where the invention occurred; and the funds so transferred to any such laboratory may be used or obligated by that laboratory during the fiscal year in which they are received or during the succeeding fiscal year—

"(i) for payment of expenses incidental to the administration and licensing of inventions by that laboratory or by the agency with respect to inventions which occurred at that laboratory, including the fees or other costs for the services of other agencies, persons, or organizations for invention management and licensing services;

"(ii) to reward scientific, engineering, and technical employees of that laboratory;

"(iii) to further scientific exchange among the Government-operated laboratories of the agency; or

"(iv) for education and training of employees consistent with the research and development mission and objectives of the agency, and for other activities that increase the licensing potential for transfer of the technology of the Government-operated laboratories of the agency.

Any of such funds not so used or obligated by the end of the fiscal year succeeding the fiscal year in which they are received shall be paid into the Treasury of the United States.

"(2) If, after payments to inventors under paragraph (1), the royalties received by an agency in any fiscal year exceed 5 percent of the budget of the Government-operated laboratories of the agency for that year, 75 percent of such excess shall be paid to the Treasury of the United States and the remaining 25 percent may be used or obligated for the purposes described in clauses (i) through (iv) of paragraph (1)(B) during that fiscal year or the succeeding fiscal year. Any funds not so used or obligated shall be paid into the Treasury of the United States.

Wages.

"(3) Any payment made to an employee under this section shall be in addition to the regular pay of the employee and to any other awards made to the employee, and shall not affect the entitlement of the employee to any regular pay, annuity, or award to which he is otherwise entitled or for which he is otherwise eligible or limit the amount thereof. Any payment made to an inventor as such shall continue after the inventor leaves the laboratory or agency. Payments made under this section shall not exceed $100,000 per year to any one person, unless the President approves a larger award (with the excess over $100,000 being treated as a Presidential award under section 4504 of title 5, United States Code).

"(4) A Federal agency receiving royalties or other income as a result of invention management services performed for another Federal agency or laboratory under section 207 of title 35, United States Code, shall retain such royalties or income to the extent required to offset the payment of royalties to inventors under clause (i) of paragraph (1)(A), costs and expenses incurred under clause (i) of paragraph (1)(B), and the cost of foreign patenting and maintenance for such invention performed at the request of the other agency or laboratory. All royalties and other income remaining after payment of the royalties, costs, and expenses described in the preceding sentence shall be transferred to the agency for which the services were performed, for distribution in accordance with clauses (i) through (iv) of paragraph (1)(B).

"(b) CERTAIN ASSIGNMENTS.—If the invention involved was one assigned to the Federal agency—

"(1) by a contractor, grantee, or participant in a cooperative agreement with the agency, or

"(2) by an employee of the agency who was not working in the laboratory at the time the inventon was made,

the agency unit that was involved in such assignment shall be considered to be a laboratory for purposes of this section.

"(c) REPORTS.—(1) In making their annual budget submissions Federal agencies shall submit, to the appropriate authorization and appropriation committees of both Houses of the Congress, summaries of the amount of royalties or other income received and expenditures made (including inventor awards) under this section.

"(2) The Comptroller General, five years after the date of the enactment of this section, shall review the effectiveness of the various royalty-sharing programs established under this section and report to the appropriate committees of the House of Representatives and the Senate, in a timely manner, his findings, conclusions, and recommendations for improvements in such programs.".

SEC. 8. EMPLOYEE ACTIVITIES.

The Stevenson-Wydler Technology Innovation Act of 1980 (as amended by the preceding provisions of this Act) is further amended by inserting after section 14 the following new section:

Patents and trademarks.
Business and industry.
15 USC 3710d.

"SEC. 15. EMPLOYEE ACTIVITIES.

"(a) IN GENERAL.—If a Federal agency which has the right of ownership to an invention under this Act does not intend to file for a patent application or otherwise to promote commercialization of such invention, the agency shall allow the inventor, if the inventor is a Government employee or former employee who made the invention during the course of employment with the Government, to retain title to the invention (subject to reservation by the Government of a nonexclusive, nontransferrable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the Government). In addition, the agency may condition the inventor's right to title on the timely filing of a patent application in cases when the Government determines that it has or may have a need to practice the invention.

"(b) Definition.—For purposes of this section, Federal employees include 'special Government employees' as defined in section 202 of title 18, United States Code.

"(c) Relationship to Other Laws.—Nothing in this section is intended to limit or diminish existing authorities of any agency.".

SEC. 9. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) Repeal of National Industrial Technology Board.—Section 10 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3709) is repealed.

(b) Changes in Terminology or Administrative Structure.—(1) Section 3(2) of the Stevenson-Wydler Technology Innovation Act of 1980 is amended by striking out "centers for industrial technology" and inserting in lieu thereof "cooperative research centers". 15 USC 3702.

(2) Section 4 of such Act is amended— 15 USC 3703.

(A) by striking out "Industrial Technology" in paragraph (1) and inserting in lieu thereof "Productivity, Technology, and Innovation";

(B) by striking out " 'Director' means the Director of the Office of Industrial Technology" in paragraph (3) and inserting in lieu thereof " 'Assistant Secretary' means the Assistant Secretary for Productivity, Technology, and Innovation";

(C) by striking out "Centers for Industrial Technology" in paragraph (4) and inserting in lieu thereof "Cooperative Research Centers";

(D) by striking out paragraph (6), and redesignating paragraphs (7) and (8) as paragraphs (6) and (7), respectively; and

(E) by striking out "owned and funded" in paragraph (6) as so redesignated and inserting in lieu thereof "owned, leased, or otherwise used by a Federal agency and funded".

(3) Section 5(a) of such Act is amended by striking out "Industrial Technology" and inserting in lieu thereof "Productivity, Technology, and Innovation". 15 USC 3704.

(4) Section 5(b) of such Act is amended by striking out "Director" and inserting in lieu thereof "Assistant Secretary", and by striking out "a Director of the Office" and all that follows and inserting in lieu thereof "an Assistant Secretary for Productivity, Technology, and Innovation.".

(5) Section 5(c) of such Act is amended—

(A) by striking out "the Director" each place it appears and inserting in lieu thereof "the Assistant Secretary";

(B) by redesignating paragraphs (7) and (8) as paragraphs (9) and (10), respectively; and

(C) by inserting immediately after paragraph (6) the following new paragraphs:

"(7) encourage and assist the creation of centers and other joint initiatives by State of local governments, regional organizations, private businesses, institutions of higher education, nonprofit organizations, or Federal laboratories to encourage technology transfer, to stimulate innovation, and to promote an appropriate climate for investment in technology-related industries;

"(8) propose and encourage cooperative research involving appropriate Federal entities, State or local governments, regional organizations, colleges or universities, nonprofit organizations, or private industry to promote the common use of resources, to improve training programs and curricula, to stimulate interest in high technology careers, and to encourage the effective dissemination of technology skills within the wider community;".

15 USC 3705.

(6) The heading of section 6 of such Act is amended to read as follows:

"SEC. 6. COOPERATIVE RESEARCH CENTERS."

(7) Section 6(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

(8) Section 6(b)(1) of such Act is amended by striking out "basic and applied".

(9) Section 6(e) of such Act is amended to read as follows:

"(e) RESEARCH AND DEVELOPMENT UTILIZATION.—In the promotion of technology from research and development efforts by Centers under this section, chapter 18 of title 35, United States Code, shall apply to the extent not inconsistent with this section.".

35 USC 200 *et seq.*

(10) Section 6(f) of such Act is repealed.

15 USC 3707.

(11) The heading of section 8 of such Act is amended by striking out "CENTERS FOR INDUSTRIAL TECHNOLOGY" and inserting in lieu thereof "COOPERATIVE RESEARCH CENTERS".

(12) Section 8(a) of such Act is amended by striking out "Centers for Industrial Technology" and inserting in lieu thereof "Cooperative Research Centers".

15 USC 3714.

(13) Section 19 of such Act (as redesignated by section 2 of this Act) is amended by striking out "pursuant to this Act" and inserting in lieu thereof "pursuant to the provisions of this Act (other than sections 12, 13, and 14)".

(c) RELATED CONFORMING AMENDMENT.—Section 210 of title 35, United States Code, is amended by adding at the end thereof the following new subsection:

Ante, p. 1785.

"(e) The provisions of the Stevenson-Wydler Technology Innovation Act of 1980, as amended by the Federal Technology Transfer Act of 1986, shall take precedence over the provisions of this chapter to the extent that they permit or require a disposition of rights in subject inventions which is inconsistent with this chapter.".

15 USC 3703.

(d) ADDITIONAL DEFINITIONS.—Section 4 of such Act (as amended by subsection (b)(2) of this section) is further amended by adding at the end thereof the following new paragraphs:

"(8) 'Federal agency' means any executive agency as defined in section 105 of title 5, United States Code, and the military departments as defined in section 102 of such title.

"(9) 'Invention' means any invention or discovery which is or may be patentable or otherwise protected under title 35, United States Code, or any novel variety of plant which is or may be protectable under the Plant Variety Protection Act (7 U.S.C. 2321 et seq.).

"(10) 'Made' when used in conjunction with any invention means the conception or first actual reduction to practice of such invention.

"(11) 'Small business firm' means a small business concern as defined in section 2 of Public Law 85-536 (15 U.S.C. 632) and implementing regulations of the Administrator of the Small Business Administration.

"(12) 'Training technology' means computer software and related materials which are developed by a Federal agency to train employees of such agency, including but not limited to software for computer-based instructional systems and for interactive video disc systems.".

(e) Redesignation of Sections To Reflect Changes Made by Preceding Provisions.—(1) Such Act (as amended by the preceding provisions of this Act) is further amended by redesignating sections 11 through 19 as sections 10 through 18, respectively. 15 USC 3710-3714.

(2)(A) Section 5(d) of such Act is amended by inserting "(as then in effect)" after "sections 5, 6, 8, 11, 12, and 13 of this Act". 15 USC 3704.

(B) Section 8(a) of such Act is amended by striking out the last sentence. 15 USC 3707.

(C) Section 9(d) of such Act is amended by striking out "or 13" and inserting in lieu thereof "10, 14, or 16". 15 USC 3708.

(3) Section 13(a)(1) of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "section 12" in the matter preceding subparagraph (A) and inserting in lieu thereof "section 11". 15 USC 3710c.

(4) Section 18 of such Act (as redesignated by paragraph (1) of this subsection) is amended by striking out "sections 12, 13, and 14" and inserting in lieu thereof "sections 11, 12, and 13". 15 USC 3714.

(f) Clarification of Findings and Purposes.—(1) The second sentence of section 2(10) of such Act (15 U.S.C. 3701(10)) is amended by inserting ", which include inventions, computer software, and training technologies," immediately after "developments".

(2) Section 3(3) of such Act (15 U.S.C. 3702(3)) is amended by inserting ", including inventions, software, and training technologies," immediately after "developments".

Approved October 20, 1986.

LEGISLATIVE HISTORY—H.R. 3773:

HOUSE REPORTS: No. 99-415 (Comm. on Science and Technology) and No. 99-953 (Comm. of Conference).
SENATE REPORTS: No. 99-283 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 131 (1985): Dec. 9, considered and passed House.
Vol. 132 (1986): Aug. 9, considered and passed Senate, amended.
Oct. 3, Senate agreed to conference report.
Oct. 7, House agreed to conference report.

PUBLIC LAW 99-574—OCT. 28, 1986

NATIONAL BUREAU OF STANDARDS AUTHORIZATION ACT FOR FISCAL YEAR 1987

Public Law 99-574
99th Congress

An Act

Oct. 28, 1986
[H.R. 4354]

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1987, and for other purposes.

National Bureau of Standards Authorization Act for Fiscal Year 1987.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Bureau of Standards Authorization Act for Fiscal Year 1987".

AUTHORIZATION FOR FOREIGN ACTIVITIES

SEC. 2. (a) There are authorized to be appropriated to the Secretary of Commerce (hereinafter referred to as the "Secretary") for fiscal year 1987, to carry out the activities performed by the National Bureau of Standards, the sums set forth in the following line items:

(1) Measurement Research and Standards, $36,582,000;
(2) Materials Science and Engineering, $21,228,000;
(3) Engineering Measurements and Standards, $35,875,000;
(4) Computer Science and Technology, $7,500,000; and
(5) Research Support Activities, $22,768,000.

(b) Notwithstanding any other provision of this or any other Act—

(1) of the amounts authorized under subsection (a), $1,900,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (3) of subsection (a), $3,470,000 is authorized only for the Center for Building Technology and $5,402,000 is authorized only for the Center for Fire Research;

(3) of the amount authorized under paragraph (4) of subsection (a), $1,000,000 is authorized only for Computer Security Activities;

(4) of the amount under paragraph (5) of subsection (a), $6,763,000 is authorized only for the Technical Competence Fund; and

(5) of the amount authorized under paragraph (5) of subsection (a), $6,500,000 is authorized only for the design, equipment, and construction of the Cold Neutron Research Facility.

(c)(1) Funds may be transferred among the line items listed in subsection (a) so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in each subsection.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for that line item in subsection (a); but a full and complete explanation of any such proposed transfer and the reason therefor must be transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and the proposed transfer may be made only when thirty calendar days have passed after the transmission of such written explanation.

Research and development.

(d) The National Bureau of Standards shall seek reimbursements of not less than $500,000 from other Federal agencies to expand its efforts in support of basic scientific research on the atmospheric, climatic, and environmental consequences of nuclear explosions and nuclear exchanges.

OFFICE OF PRODUCTIVITY, TECHNOLOGY, AND INNOVATION

Sec. 3. In addition to the sums authorized by section 2, there is authorized to be appropriated to the Secretary for fiscal year 1987 the sum of $2,248,000 for the activities of the Office of Productivity, Technology, and Innovation.

NATIONAL TECHNICAL INFORMATION SERVICE

Sec. 4. In addition to the sums authorized by sections 2 and 3, there is authorized to be appropriated to the Secretary for fiscal year 1987 the sum of $500,000 for the patent licensing activities of the National Technical Information Service.

AVAILABILITY OF APPROPRIATIONS

Sec. 5. Appropriations made under the authority provided in this Act shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

FINANCIAL ASSISTANCE TO CURRENT AND PROSPECTIVE EMPLOYEES

15 USC 278h.

Sec. 6. (a) In order to secure the services of the broadest possible range of talent in carrying out the programs of the National Bureau of Standards, the Act of March 3, 1901 (15 U.S.C. 271-278h) is amended by redesignating section 18 as section 19 and by inserting after section 17 the following new section:

Fellowships.
Loans.
Grants.
Education.
15 USC 278g-1.

"Sec. 18. The Director is authorized to expend up to 1 per centum of the funds appropriated for activities of the National Bureau of Standards in any fiscal year, as the Director may deem desirable, for awards of research fellowships and other forms of financial assistance to students at institutions of higher learning within the United States who show promise as present or future contributors to the mission of the Bureau. The selection of persons to receive such fellowships and assistance shall be made on the basis of ability and of the relevance of the proposed work to the mission and programs of the Bureau.".

Effective date.
15 USC 278g-1 note.

(b) The amendments made by subsection (a) shall be effective October 1, 1986.

ASSESSMENT OF EMERGING TECHNOLOGIES REQUIRING RESEARCH IN METROLOGY

15 USC 282a.

Sec. 7. The Board of Assessment of the National Bureau of Standards programs shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Bureau abreast of its mission, including (but not limited to) Process and Quality Control, Technology Transfer, Engineering Databases, High-Performance Composites, Advanced Ceramics, Fiber Optics, Microwave Metrology, Bioprocess Engineering, and Advanced Computing Concepts. Such review shall include estimates of the cost of the required effort, the required staffing level, and the period over which the research will be required.

POST-DOCTORAL FELLOWSHIP PROGRAM

15 USC 278h.

15 USC 271h.

SEC. 8. (a) The Act of March 3, 1901 (15 U.S.C. 271-271h), as amended by section 6 of this Act, is further amended by redesignating section 19 as section 20 and by inserting after section 18 the following new section:

Fellowships.
15 USC 278g-2.

"SEC. 19. The National Bureau of Standards, in conjunction with the National Academy of Sciences, shall establish and conduct a post-doctoral fellowship program which shall be organized and carried out in substantially the same manner as the National Academy of Sciences/National Research Council Post-Doctoral Research Associate Program that was in effect prior to 1986, and which shall include not less than twenty nor more than forty new fellows per fiscal year.".

Effective date.
15 USC 278g-2 note.

(b) The amendments made by subsection (a) shall be effective October 1, 1987.

PROCESS AND QUALITY CONTROL AND CALIBRATION PROGRAMS

Research and development.

SEC. 9. (a) The Director of the National Bureau of Standards shall hold discussions with representatives of Federal agencies, including the Department of Defense, the Department of Energy, the National Aeronautics and Space Administration, the Federal Aviation Administration, the National Institutes of Health, the Nuclear Regulatory Commission, and the Federal Communications Commission, which use (or the contractors of which depend on) the process and quality control and calibration programs of the Bureau, and with companies, organizations, and major engineering societies from the private sector, in order to determine the extent of the demand for research and services under such programs, the appropriate methods of paying for research and services under such programs, and the willingness of Federal agencies and the private sector to pay for such research and services.

Reports.

(b) Within six months after the date of the enactment of this Act, the Director shall submit to the Committee on Science and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report of the Director's findings based on the discussions held under subsection (a), together with recommendations for such legislative actions as may be needed to implement a comprehensive Federal process and quality control and calibration program.

DEMONSTRATION PROJECT RELATING TO PERSONNEL MANAGEMENT

15 USC 275 note.

SEC. 10. (a)(1) The Office of Personnel Management and the National Bureau of Standards shall jointly design a demonstration project which shall be conducted by the Director of the National Bureau of Standards.

(2) The demonstration project shall, except as otherwise provided in this section, be conducted in accordance with section 4703 of title 5, United States Code, and shall be counted as a single project for purposes of subsection (d)(2) of such section.

(3) Subject to subsections (f) and (g) of section 4703 of title 5, United States Code, the demonstration project shall cover any posi-

tion within the National Bureau of Standards which would otherwise be subject to—

(A) subchapter III of chapter 53 of title 5, United States Code, relating to the General Schedule; 5 USC 5331.

(B) subchapter VIII of chapter 53 of title 5, United States Code, relating to the Senior Executive Service; or 5 USC 5381.

(C) chapter 54 of title 5, United States Code, relating to the Performance Management and Recognition System. 5 USC 5401 *et seq.*

(b) Under the demonstration project, the Director of the National Bureau of Standards shall provide that—

(1) the rate of basic pay for a position may not be less than the minimum rate of basic pay, nor more than the maximum rate of basic pay, payable for the pay band (as referred to in paragraph (3)) within which such position has been placed;

(2) the minimum and maximum rates of basic pay for each pay band shall be adjusted at the times, and by the amounts, provided for under subsection (c);

(3) positions shall be classified under a system using pay bands which shall be established by combining or otherwise modifying the classes, grades, or other units which would otherwise be used in classifying the positions involved;

(4) employees shall be evaluated under a performance appraisal system which—

(A) uses peer comparison and ranking wherever appropriate; and

(B) affords appeal rights comparable to those afforded under chapter 43 of title 5, United States Code; 5 USC 4301 *et seq.*

(5)(A) the rate of basic pay of each participating employee will be reviewed annually, and shall be adjusted on the basis of the appraised performance of the employee; and

(B) subject to subsection (c)(4)(A)(i), the adjustment under subparagraph (A) in any year in the case of any employee whose performance is rated at the fully successful level or higher shall be at least the percentage adjustment taking effect under subsection (c)(3) in such year;

(6) appropriate supervisory and managerial pay differentials (which shall be considered a part of basic pay) shall be provided;

(7) performance-recognition bonuses, and recruitment and retention allowances, shall be awarded in appropriate circumstances (but shall not be considered a part of basic pay);

(8) there shall be an employee development program which includes provisions under which employees may, in appropriate circumstances, be granted sabbaticals, the terms and conditions of which shall be consistent with those applicable for members of the Senior Executive Service under section 3396(c) of title 5, United States Code (excluding paragraph (2)(B) thereof);

(9) payment of travel expenses shall be provided for personnel to their first post of duty in the same manner as is authorized for members of the Senior Executive Service under section 5723 of title 5, United States Code, at the discretion of the Director; and

(10) the methods of establishing qualification requirements for, recruitment for, and appointment to positions shall, at the discretion of the Director, include methods involving direct examination and hiring.

(c)(1) For the purpose of this subsection, the term "compensation" means the total value of the various forms of compensation provided, including—

(A) basic pay;
(B) bonuses;
(C) allowances;
(D) retirement benefits;
(E) health insurance benefits;
(F) life insurance benefits; and
(G) leave benefits.

Contracts.
Reports.

(2) The Director of the National Bureau of Standards shall, by contract or otherwise, provide for the preparation of reports which, based on appropriate surveys—

(A) shall include findings as to—

(i) the extent to which, as of the commencement of the demonstration project, the overall average level of compensation provided with respect to positions under the demonstration project is deficient in comparison to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(ii) with respect to each year thereafter, any net increase occurring during such year in the extent of the deficiency in the overall average level of compensation provided with respect to positions under the demonstration project, as compared to the overall average level of compensation generally provided with respect to positions involving the same types and levels of work in the private sector; and

(B) shall recommend a single percentage by which basic pay for all positions under the demonstration project must be increased so that, when considered in conjunction with the other forms of compensation generally provided, any net increase determined under subparagraph (A)(ii) will be eliminated.

(3) Whenever the Director of the National Bureau of Standards receives a recommendation under paragraph (2)(B), the Director—

(A) shall increase the minimum and maximum rates of basic pay for each such pay band by the lesser of—

(i) the percentage recommended; or

(ii) the overall average percentage of the adjustment in the rates of pay under the General Schedule under section 5305 of title 5, United States Code, for the period involved; and

(B) if and to the extent that funds are available for that purpose, may further increase those minimum and maximum rates—

(i) to make up for any part of the difference between the respective percentages under subparagraph (A), if the percentage under subparagraph (A)(ii) is the lesser; and

(ii) after making up for the entirety of any difference determined under clause (i) (including from any previous year), to eliminate any part of any remaining deficiency as originally determined under paragraph (2)(A)(i).

(4)(A) Notwithstanding any other provision of this section—

(i) the maximum rate of basic pay payable under any pay band may not exceed the rate of basic pay payable for level IV of the Executive Schedule; and

(ii) the amount of basic pay, bonuses, and allowances paid during any fiscal year to any employee participating in the demonstration project may not, in the aggregate, exceed the annual rate of basic pay payable for level I of the Executive Schedule.

(B)(i) Any amount which is not paid to an employee during a fiscal year because of the limitation under subparagraph (A)(ii) shall be paid in a lump sum at the beginning of the following fiscal year.

(ii) Any amount paid under this subparagraph during a fiscal year shall be taken into account for purposes of applying the limitation under subparagraph (A)(ii) with respect to such fiscal year.

(5) Notwithstanding any other provision of this section, the demonstration project shall be conducted in such a way so that, with respect to the 12-month period beginning on October 1, 1986, the total cost to the Government relating to providing compensation to participating employees shall not exceed the total cost which would have resulted if this section had not been enacted.

(6)(A) If the minimum rate of basic pay for a pay band, after an increase under paragraph (3)(A), exceeds the rate of basic pay payable to an employee whose position would otherwise be within such pay band, the employee's position may, notwithstanding subsection (b)(1), be placed in the next lower pay band.

(B) Placement of a position in a lower pay band under subparagraph (A) shall not be considered a reduction in grade or pay for purposes of subchapter II of chapter 75 of title 5, United States Code, or a comparable provision under the project. 5 USC 7511.

(d)(1) The rate of basic pay for an employee serving in a position at the time it is converted to a position covered by the demonstration project may not be reduced by reason of the establishment of such project.

(2)(A) Each employee referred to in paragraph (1) shall be paid—

(i) in the case of an employee serving in a position under the General Schedule on the date the position becomes covered by the demonstration project, a lump-sum pro rata share of the equivalent of any within-grade increase which would have been due the employee under section 5335 of title 5, United States Code, computed as provided in subparagraph (B), and

(ii) in the case of an employee serving in a position subject to chapter 54 of title 5, United States Code, on such date, a lump-sum pro rata share of the equivalent of the employee's merit increase which would have been due under such chapter, computed as provided in subparagraph (B), taking into account the performance requirements applicable to such increase. 5 USC 5401 *et seq.*

(B) For purposes of subparagraph (A), the pro rata share of an equivalent increase referred to in such subparagraph shall be computed through the day before the date referred to in such subparagraph.

(e)(1)(A) In carrying out section 4703(h) of title 5, United States Code, with respect to the demonstration project, the Office of Personnel Management shall provide that such project will be evaluated on an annual basis by a contractor. Such contractor shall be especially qualified to perform the evaluation based on its expertise in matters relating to personnel management and compensation.

(B) The contractor shall report its findings to the Office in writing. After considering the report, the Office shall transmit a copy of the Reports.

report, together with any comments of the Office and any comments submitted by the National Bureau of Standards, to—

(i) the Committee on Post Office and Civil Service, and the Committee on Science and Technology, of the House of Representatives; and

(ii) the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation, of the Senate.

Reports.

(2) The Comptroller General shall, not later than 4 years after the date on which the demonstration project commences, submit to each of the committees referred to in paragraph (1)(B) a final report concerning such project. Such report shall include any recommendations for legislation or other action which the Comptroller General considers appropriate.

Contracts.

(f) The authority to enter into any contract under this section may be exercised only to such extent or in such amounts as are provided in advance in appropriation Acts.

(g) The demonstration project shall commence not later than January 1, 1988.

Approved October 28, 1986.

LEGISLATIVE HISTORY—H.R. 4354 (S. 2664):

HOUSE REPORTS: No. 99-617 (Comm. on Science and Technology) and Pt. 2 (Comm. on Post Office and Civil Service).

SENATE REPORTS: No. 99-399 accompanying S. 2664 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 132 (1986):
Aug. 12, considered and passed House.
Oct. 3, considered and passed Senate, amended.
Oct. 10, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 22 (1986):
Oct. 28, Presidential statement.

PUBLIC LAW 100-107—AUG. 20, 1987

MALCOLM BALDRIGE NATIONAL QUALITY IMPROVEMENT ACT OF 1987

Public Law 100-107
100th Congress

An Act

Aug. 20, 1987
[H.R. 812]

To amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish the Malcolm Baldrige National Quality Award, with the objective of encouraging American business and other organizations to practice effective quality control in the provision of their goods and services.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Malcolm Baldrige National Quality Improvement Act of 1987.
Decorations, medals, awards.
15 USC 3701 note.
15 USC 3711a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Malcolm Baldrige National Quality Improvement Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds and declares that—

(1) the leadership of the United States in product and process quality has been challenged strongly (and sometimes successfully) by foreign competition, and our Nation's productivity growth has improved less than our competitors over the last two decades;

(2) American business and industry are beginning to understand that poor quality costs companies as much as 20 percent of sales revenues nationally, and that improved quality of goods and services goes hand in hand with improved productivity, lower costs, and increased profitability;

(3) strategic planning for quality and quality improvement programs, through a commitment to excellence in manufacturing and services, are becoming more and more essential to the well-being of our Nation's economy and our ability to compete effectively in the global marketplace;

(4) improved management understanding of the factory floor, worker involvement in quality, and greater emphasis on statistical process control can lead to dramatic improvements in the cost and quality of manufactured products;

(5) the concept of quality improvement is directly applicable to small companies as well as large, to service industries as well as manufacturing, and to the public sector as well as private enterprise;

(6) in order to be successful, quality improvement programs must be management-led and customer-oriented and this may require fundamental changes in the way companies and agencies do business;

(7) several major industrial nations have successfully coupled rigorous private sector quality audits with national awards giving special recognition to those enterprises the audits identify as the very best; and

(8) a national quality award program of this kind in the United States would help improve quality and productivity by—

(A) helping to stimulate American companies to improve quality and productivity for the pride of recognition while obtaining a competitive edge through increased profits,

(B) recognizing the achievements of those companies which improve the quality of their goods and services and providing an example to others,

(C) establishing guidelines and criteria that can be used by business, industrial, governmental, and other organizations in evaluating their own quality improvement efforts, and

(D) providing specific guidance for other American organizations that wish to learn how to manage for high quality by making available detailed information on how winning organizations were able to change their cultures and achieve eminence.

(b) PURPOSE.—It is the purpose of this Act to provide for the establishment and conduct of a national quality improvement program under which (1) awards are given to selected companies and other organizations in the United States that practice effective quality management and as a result make significant improvements in the quality of their goods and services, and (2) information is disseminated about the successful strategies and programs.

SEC. 3. ESTABLISHMENT OF THE MALCOLM BALDRIGE NATIONAL QUALITY AWARD PROGRAM.

(a) IN GENERAL.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended by redesignating sections 16, 17, and 18 as sections 17, 18, and 19, respectively, and by inserting after section 15 the following new section: 15 USC 3712-3714.

"SEC. 16. MALCOLM BALDRIGE NATIONAL QUALITY AWARD.

15 USC 3711a.

"(a) ESTABLISHMENT.—There is hereby established the Malcolm Baldrige National Quality Award, which shall be evidenced by a medal bearing the inscriptions 'Malcolm Baldrige National Quality Award' and 'The Quest for Excellence'. The medal shall be of such design and materials and bear such additional inscriptions as the Secretary may prescribe.

"(b) MAKING AND PRESENTATION OF AWARD.—(1) The President (on the basis of recommendations received from the Secretary), or the Secretary, shall periodically make the award to companies and other organizations which in the judgment of the President or the Secretary have substantially benefited the economic or social well-being of the United States through improvements in the quality of their goods or services resulting from the effective practice of quality management, and which as a consequence are deserving of special recognition. President of U.S.

"(2) The presentation of the award shall be made by the President or the Secretary with such ceremonies as the President or the Secretary may deem proper. President of U.S.

"(3) An organization to which an award is made under this section, and which agrees to help other American organizations improve their quality management, may publicize its receipt of such award and use the award in its advertising, but it shall be ineligible to receive another such award in the same category for a period of 5 years.

"(c) Categories in Which Award May be Given.—(1) Subject to paragraph (2), separate awards shall be made to qualifying organizations in each of the following categories—

"(A) Small businesses.

"(B) Companies or their subsidiaries.

"(C) Companies which primarily provide services.

"(2) The Secretary may at any time expand, subdivide, or otherwise modify the list of categories within which awards may be made as initially in effect under paragraph (1), and may establish separate awards for other organizations including units of government, upon a determination that the objectives of this section would be better served thereby; except that any such expansion, subdivision, modification, or establishment shall not be effective unless and until the Secretary has submitted a detailed description thereof to the Congress and a period of 30 days has elapsed since that submission.

"(3) Not more than two awards may be made within any subcategory in any year (and no award shall be made within any category or subcategory if there are no qualifying enterprises in that category or subcategory).

"(d) Criteria for Qualification.—(1) An organization may qualify for an award under this section only if it—

"(A) applies to the Director of the National Bureau of Standards in writing, for the award,

"(B) permits a rigorous evaluation of the way in which its business and other operations have contributed to improvements in the quality of goods and services, and

"(C) meets such requirements and specifications as the Secretary, after receiving recommendations from the Board of Overseers established under paragraph (2)(B) and the Director of the National Bureau of Standards, determines to be appropriate to achieve the objectives of this section.

In applying the provisions of subparagraph (C) with respect to any organization, the Director of the National Bureau of Standards shall rely upon an intensive evaluation by a competent board of examiners which shall review the evidence submitted by the organization and, through a site visit, verify the accuracy of the quality improvements claimed. The examination should encompass all aspects of the organization's current practice of quality management, as well as the organization's provision for quality management in its future goals. The award shall be given only to organizations which have made outstanding improvements in the quality of their goods or services (or both) and which demonstrate effective quality management through the training and involvement of all levels of personnel in quality improvement.

"(2)(A) The Director of the National Bureau of Standards shall, under appropriate contractual arrangements, carry out the Director's responsibilities under subparagraphs (A) and (B) of paragraph (1) through one or more broad-based nonprofit entities which are leaders in the field of quality management and which have a history of service to society.

"(B) The Secretary shall appoint a board of overseers for the award, consisting of at least five persons selected for their preeminence in the field of quality management. This board shall meet annually to review the work of the contractor or contractors and make such suggestions for the improvement of the award process as they deem necessary. The board shall report the results of the award activities to the Director of the National Bureau of Standards each

Reports.

year, along with its recommendations for improvement of the process.

"(e) INFORMATION AND TECHNOLOGY TRANSFER PROGRAM.—The Director of the National Bureau of Standards shall ensure that all program participants receive the complete results of their audits as well as detailed explanations of all suggestions for improvements. The Director shall also provide information about the awards and the successful quality improvement strategies and programs of the award-winning participants to all participants and other appropriate groups.

Gifts and property.

"(f) FUNDING.—The Secretary is authorized to seek and accept gifts from public and private sources to carry out the program under this section. If additional sums are needed to cover the full cost of the program, the Secretary shall impose fees upon the organizations applying for the award in amounts sufficient to provide such additional sums.

"(g) REPORT.—The Secretary shall prepare and submit to the President and the Congress, within 3 years after the date of the enactment of this section, a report on the progress, findings, and conclusions of activities conducted pursuant to this section along with recommendations for possible modifications thereof.".

(b) CONFORMING AMENDMENT.—Section 9(d) of such Act (15 U.S.C. 3708(d)) is amended by striking "or 16" and inserting in lieu thereof "16, or 17".

Approved August 20, 1987.

LEGISLATIVE HISTORY—H.R. 812:

HOUSE REPORTS: No. 100-96 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-143 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 133 (1987):
    June 8, considered and passed House.
    Aug. 5, considered and passed Senate, amended.
    Aug. 7, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 23 (1987):
    Aug. 20, Presidential statement.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION AUTHORIZATION ACT OF 1988

Public Law 100-147
100th Congress

An Act

Oct. 30, 1987
[H.R. 2782]

To authorize appropriations to the National Aeronautics and Space Administration for research and development; space flight, control and data communications; construction of facilities; and research and program management; and for other purposes.

National Aeronautics and Space Administration Authorization Act of 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act of 1988".

TITLE I—AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SEC. 101. (a) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Research and development", for the following programs:

(1) Permanently manned space station, $767,000,000.

(2) Space transportation capability development, $553,600,000.

(3) Physics and astronomy, $581,800,000.

(4) Life sciences, $74,600,000.

(5) Planetary exploration, $320,300,000, of which $42,300,000 is authorized only for the purpose of preparing the Mars Observer Spacecraft for launch in 1992 and for procuring spare parts for a Planetary Observer program.

(6) Space applications, $651,400,000, of which $84,000,000 is authorized only for the Advanced Communications Technology Satellite.

(7) Technology utilization, $18,300,000.

(8) Commercial use of space, $30,700,000.

(9) Aeronautical research and technology, $387,000,000.

(10) Transatmospheric research and technology, $66,000,000.

(11) Space research and technology, $234,000,000.

(12) Safety, reliability, and quality assurance, $16,200,000.

(13) Tracking and data advanced systems, $18,100,000.

(b) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Space flight, control and data communications", for the following programs:

(1) Space shuttle production and operational capability, $1,174,600,000, of which $76,000,000 is authorized only for initial lay-in spare parts for the space shuttle orbiter.

(2) Space transportation operations, $1,885,800,000, of which $106,700,000 is authorized only for flight spare parts for the space shuttle orbiter.

(3) Space and ground network, communications, and data systems, $924,900,000.

(4) Expendable launch vehicle operations, $60,000,000.

(c) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Construction of facilities", including land acquisition, as follows:

(1) Construction of LC 39 Operations Support Building, Kennedy Space Center, $22,800,000.

(2) Construction of Spacecraft Systems Development and Integration Facility, Goddard Space Flight Center, $8,600,000.

(3) Modifications for utility reliability, Goddard Space Flight Center, $2,900,000.

(4) Construction of Integrated Test Facility, Dryden Flight Research Facility, $10,500,000.

(5) Modifications to Hypersonic Propulsion Facility for Vaccum Systems, Langley Research Center, $3,100,000.

(6) Construction of addition to the Research Analysis Center, Lewis Research Center, $9,800,000.

(7) Modifications for Fan/Compressor Research, Engine Research Building, Lewis Research Center, $6,500,000.

(8) Construction of Communications Development Antenna, Goldstone, California, Jet Propulsion Laboratories, $6,400,000.

(9) Repair of facilities at various locations, not in excess of $750,000 per project, $25,000,000.

(10) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $32,000,000.

(11) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $8,000,000.

(12) Environmental compliance and restoration, $23,900,000.

(13) Repair and modernization of the 12-foot pressure wind tunnel at the Ames Research Center, $41,000,000.

(14) Facility planning and design not otherwise provided for, $16,000,000.

(d) There is authorized to be appropriated to the National Aeronautics and Space Administration to become available October 1, 1987, for "Research and program management", $1,583,000,000.

(e) The Administrator is authorized (to the extent provided in an appropriation Act) to transfer $22,000,000 from any funds which were made available for prior years, and which remain unobligated as of the date of the enactment of this Act, except for funds made available for Aeronautical and Space Research and Technology, Transatmospheric Research and Technology programs, Construction of Facilities activities, and Research and Program Management activities for the support of such programs, and use such funds for the preparation of the Mars Observer spacecraft for launch in 1992.

(f) Notwithstanding the provisions of subsection (h), appropriations authorized in this Act for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the National Aeronautics and Space Administration (hereinafter in this title referred to as the "Administration") for the performance of research and development contracts, and (2) grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereinafter in this title referred to as the "Administrator") determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this Act may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

42 USC 2459a.

(g) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of 12 months beginning at any time during the fiscal year.

(h) Appropriations made pursuant to subsection (d) may be used, but not to exceed $35,000, for scientific consultations or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(i) Of the funds appropriated pursuant to subsections (a), (b), and (d), not in excess of $100,000 for each project, including collateral equipment, may be used for construction of new facilities and additions to existing facilities, and for repair, rehabilitation, or modification of facilities: *Provided,* That, of the funds appropriated pursuant to subsection (a) or (b), not in excess of $500,000 for each project, including collateral equipment, may be used for any of the foregoing for unforeseen programmatic needs: *Provided further,* That, of the funds appropriated pursuant to subsection (d), not in excess of $500,000 per project, including collateral equipment, may be used for repair, rehabilitation, or modification of facilities controlled by the General Services Administration.

SEC. 102. Authorization is granted whereby any of the amounts prescribed in paragraphs (1) through (13) of section 101(c) of this title—

(1) in the discretion of the Administrator or the Administrator's designee, may be varied upward 10 percent; or

Reports.

(2) following a report by the Administrator or the Administrator's designee to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the circumstances of such action, may be varied upward 25 percent;

to meet unusual cost variations, but the total cost of all work authorized under such paragraphs shall not exceed the total of the amounts specified in such paragraphs.

SEC. 103. Not to exceed one-half of 1 percent of the funds appropriated pursuant to section 101 (a) or (b) of this title may be transferred to and merged with the "Construction of facilities" appropriation, and when so transferred, together with $10,000,000 of funds appropriated pursuant to section 101(c) of this title (other than funds appropriated pursuant to paragraph (14) of such section) shall be available for expenditure to construct, expand, and modify laboratories and other installations at any location (including locations specified in section 101(c)), if (1) the Administrator determines that such action is necessary because of changes in the national program of aeronautical and space activities or new scientific or engineering developments, and (2) the Administrator determines that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities. The funds so made available may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. No portion of such Reports. sums may be obligated for expenditure or expended to construct, expand, or modify laboratories and other installations unless a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the President of the Senate and to the Speaker of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a written report containing a full and complete statement concerning (A) the nature of such construction, expansion, or modification, (B) the cost thereof including the cost of any real estate action pertaining thereto, and (C) the reason why such construction, expansion, or modification is necessary in the national interest.

SEC. 104. Notwithstanding any other provision of this title, no amount appropriated pursuant to this title may be used for any program—

(1) deleted by the Congress from requests as originally made either to the Committee on Commerce, Science, and Transportation of the Senate or the Committee on Science, Space, and Technology of the House of Representatives;

(2) in excess of the amount actually authorized for that particular program by section 102 (a), (b), and (d); and

(3) which has not been presented to either such Committee;

unless a period of 30 days has passed after the receipt by the President of the Senate and the Speaker of the House of Representatives and each such committee of notice given by the Administrator or the Administrator's designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

SEC. 105. No civil space station authorized under section 101(a)(1) of this title may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

SEC. 106. (a) The Administrator is directed to undertake the 42 USC 2451 note. construction of a permanently manned space station (hereinafter referred to as the "space station") to become operational in 1995. The space station will be used for the following purposes—

(1) the conduct of scientific experiments, applications experiments, and engineering experiments;

(2) the servicing, rehabilitation, and construction of satellites and space vehicles;

(3) the development and demonstration of commercial products and processes; and

(4) the establishment of a space base for other civilian and commercial space activities.

(b) The space station shall be developed and operated in a manner that supports other science and space activities.

(c) In order to reduce the cost of operations of the space station and its ground support system, the Administrator shall undertake the development of such advanced technologies as may be appropriate within the level of funding authorized in this Act.

(d) The Administrator shall seek to have portions of the space station constructed and operated by the private sector, where appropriate.

International agreements.
Canada.
Europe.
Japan.

(e) The Administrator shall promote international cooperation in the space station program by undertaking the development, construction, and operation of the space station in conjunction with (but not limited to) the Governments of Europe, Japan, and Canada.

42 USC 2451 note.

(f) The space station shall be designed, developed, and operated in a manner that enables evolutionary enhancement.

SEC. 107. (a) For each of the fiscal years 1989 through 1996, the Administrator, along with the President's submission to the Congress of the annual budget request for the National Aeronautics and Space Administration, shall submit a capital development plan for the space station program. Each such plan shall include the estimated cost of all direct research and development; space flight, control and data communications; construction of facilities; and research and program management for the fiscal year involved and the two succeeding fiscal years.

(b) For fiscal year 1989, the capital development plan shall also include a statement outlining the total cost, schedule, and configuration of the Administration's space station proposal, as well as an analysis of the "Report of the Committee on the Space Station of the National Research Council". Such analysis shall examine alternatives for the configuration of the space station including but not limited to low cost alternatives.

42 USC 2451 note.

SEC. 108. In order to ensure that the development of the space station is part of a balanced civilian space program, the Administrator is instructed to establish as a goal a funding profile that limits (1) space station total annual costs under the capital development plan in section 107 to 25 percent of the total budget request for the National Aeronautics and Space Administration and (2) all space station direct operations costs, except for those costs associated with the utilization of the space station, to 10 percent of the total budget request for the National Aeronautics and Space Administration.

42 USC 2451 note.

SEC. 109. (a) It is the sense of the Congress that the launching and servicing of the space station should be accomplished by the most cost-effective use of space transportation systems, including the space shuttle and expendable launch vehicles.

Reports.

(b) Not later than January 15, 1988, the Administrator shall submit a preliminary report on the cost-effective use of space transportation systems for the launch of space station elements during the development and operation of the space station. The Administrator shall consider—

(1) the potential use of future advanced or heavy lift expendable launch vehicles for purposes of the assembly and operation of the space station;

(2) the use of existing expendable launch vehicles of the National Aeronautics and Space Administration, the Department of Defense, and the Private Sector;

(3) the requirement for space shuttle launches; and

(4) the risk of capital losses from the use of expendable launch vehicles and the space shuttle.

42 USC 2451 note.

SEC. 110. (a) The Administrator shall set and collect reasonable user fees for the use and maintenance of the space station.

(b) The Administrator shall set user fees so as to—

(1) promote the use of the space station consistent with the policy set forth in section 106;

(2) recover the costs of the use of the space station, including reasonable charges for any enhancement needed for such use; and

(3) conserve and efficiently allocate the resources of the space station.

(c) The Administrator may, on a case-by-case basis, waive or modify such user fees when in the Administrator's judgment such waiver or modification will further the goals and purposes of the National Aeronautics and Space Act of 1958, including—

(1) the advancement of scientific or engineering knowledge;

(2) international cooperation; and

(3) the commercial use of space.

42 USC 2451 note.

SEC. 111. No later than September 30, 1988, the Administrator shall submit a detailed plan for collecting reimbursements for the utilization of the space station under section 110, including the services to be offered, the methodology and bases by which prices will be charged, and the estimated revenues.

International agreements.
Canada.
Europe.
Japan.
42 USC 2451 note.

SEC. 112. The Intergovernmental Agreement currently being negotiated between the United States Government and Canada, Japan, and member governments of the European Space Agency, and the Memorandum of Understanding currently being negotiated between the National Aeronautics and Space Administration and its counterpart agencies in Canada, Japan, and Europe concerning the detailed design, development, construction, operation, or utilization of the space station shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. No such agreement shall take effect until 30 days have passed after the receipt by such committees of the agreement.

42 USC 2459 note.

SEC. 113. (a) It is the sense of the Congress that it is in the national interest that consideration be given to geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

Reports.

(b) The Administrator shall report to the Congress on the extent to which such consideration has been given and such ways and means explored during fiscal year 1987, and shall submit such report to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate by January 15, 1988.

International agreements.

SEC. 114. (a) The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

SEC. 115. Title II of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"DONATIONS FOR SPACE SHUTTLE ORBITER

Gifts and property.
42 USC 2476b.

"SEC. 208. (a) The Administrator may accept gifts and donations of services, money, and real, personal, tangible, and intangible property, and use such gifts and donations for the construction of a space shuttle orbiter.

"(b)(1) The authority of the Administrator to accept gifts or donations pursuant to subsection (a) of this section shall terminate five years after the date of the enactment of this section.

"(2) All gifts and donations accepted by the Administrator pursuant to subsection (a) of this section which are not needed for construction of a space shuttle orbiter shall be used by the Administrator for an appropriate purpose—

"(A) in tribute to the dedicated crew of the space shuttle Challenger; and

"(B) in furtherance of the exploration of space.

"(c) The name of a space shuttle orbiter constructed in whole or in part with gifts or donations whose acceptance and use are authorized by subsection (a) of this section shall be selected by the Administrator from among suggestions submitted by students in elementary and secondary schools.".

SEC. 116. (a) It is the sense of the Congress that the space shuttle is a critical national resource that should be preserved; that it should be used primarily for those missions which require its unique capabilities; and that a diversified family of expendable launch vehicles should be incorporated by use into the Nation's civilian space flight program.

(b) The Administrator shall establish a program for launching payloads by means of expendable launch vehicles and, if available, by commerical launch services.

(c) The Administrator shall take such action as may be necessary to ensure that expendable launch vehicles or, if available, commerical launch services are obtained for the launch of the following payloads:

(1) Roentgen Satellite (ROSAT), for launch in 1990.

(2) Tracking and Data Relay Satellite (TDRS)-F, or a planetary mission.

(3) Extreme Ultraviolet Explorer (EUVE), for launch in 1991.

(4) Mars Observer, for launch in 1992.

Reports.

(d) The Administrator shall report to the Congress not later than January 15, 1988, on the Administrator's compliance with this section, and shall submit such report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

SEC. 117. Title III of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451 et seq.) is amended by adding at the end the following:

"CONTRACTS REGARDING EXPENDABLE LAUNCH VEHICLES

42 USC 2459c.

"SEC. 311. (a) The Administrator may enter into contracts for expendabe launch vehicle services that are for periods in excess of the period for which funds are otherwise available for obligation, provide for the payment for contingent liability which may accrue in excess of available appropriations in the event the Government for its convenience terminates such contracts, and provide for advance payments reasonably related to launch vehicle and related equipment, fabrication, and acquisition costs, if any such contract limits the amount of the payments that the Federal Government is allowed to make under such contract to amounts provided in advance in appropriation Acts. Such contracts may be limited to sources within the United States when the Administrator determines that such limitation is in the public interest.

"(b) If funds are not available to continue any such contract, the contract shall be terminated for the convenience of the Government, and the costs of such contract shall be paid from appropriations originally available for performance of the contract, from other, unobligated appropriations currently available for the procurement of launch services, or from funds appropriated for such payments.".

SEC. 118. (a) It is the sense of the Congress that the capital investment in space satellites and vehicles should be enhanced and protected by establishing a system of servicing, rehabilitation, and repair capabilities in orbit (hereinafter referred to as "satellite servicing").

(b) The Administrator shall conduct a thorough and comprehensive study of satellite servicing with a view toward establishing national goals and objectives for utilizing such capabilities.

(c) In conducting the study of satellite servicing under this section, the Administrator shall give consideration to—

(1) the use of the space shuttle, the space station, and other space vehicles to carry out or support satellite servicing;

(2) all potential users of satellite servicing capabilities, including civilian, defense, private, and foreign satellites and space vehicles;

(3) experience to date with in-orbit satellite servicing including the costs of such operations and the fees charged users that are not from the National Aeronautics and Space Administration;

Insurance.

(4) the pertinence of satellite servicing to insurance, including the character, cost, and availability of insurance;

(5) the pertinence of satellite servicing to satellite and vehicle design;

(6) the pertinence of satellite servicing to the National Aeronautics and Space Administration and other space programs, including science and applications programs; and

(7) the prices to be charged for satellite servicing such that the full costs of such servicing can be recovered.

Reports.

(d) The Administrator shall complete the study and present a full report on it to the Congress on or before January 15, 1988.

SEC. 119. The Administrator shall review the findings, recommendations, and proposed space agenda of the National Commission on Space as set forth in its report submitted under section 204(c) of the National Aeronautics and Space Administration Authorization Act, 1985 (Public Law 98-361; 98 Stat. 422), and shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives, within 60 days after the date of enactment of this Act, a recommendation for a long-range implementation plan, including an impact assessment of such implementation on personnel, budget, and other resources.

SEC. 120. Section 24 of the Commercial Space Launch Act (49 U.S.C. App. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $4,548,000 for fiscal year 1988.".

SEC. 121. (a) It is the sense of the Congress that the solid rocket motor project of the space shuttle program would benefit from competition, and that an advanced solid rocket motor would enhance the margin of safety, reliability, and performance of the space shuttle.

(b) By the date on which the President submits to the Congress the fiscal year 1990 budget request for the National Aeronautics and Space Administration, the Administrator shall issue a request for proposals to acquire by means of a competitive procurement an advanced solid rocket motor. The Administrator shall also consider ways and means to improve quality control, reduce operational hazards, reduce costs, increase competition, and enhance manufacturing processes, including, but not limited to, constructing a government-owned and contractor-operated solid rocket motor production facility and providing for a dual source of supply of the advanced solid rocket motor.

(c) Until a request for proposals has been issued under subsection (b) of this section, no contract for the purchase of additional solid rocket motors shall be extended or signed by the Administrator. The Administrator may proceed with the procurement of long-lead materials for the solid rocket motors from the current contractor only after the Administrator has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of

Representatives that such action is necessary to prevent a delay in the space shuttle launch schedule.

(d) The Administrator shall notify the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives if the competitive procurement specified in subsection (b) cannot be conducted. The Administrator shall transmit such notice along with a complete explanation of the reasons supporting such determination. Following such determination, but no sooner than 30 days following the transmission of the notice required under this subsection, the Administrator shall—

(1) conduct a competition to select a qualified second source of supply (in addition to the current contractor) for flight sets of the redesigned solid rocket motor that is currently under development; or

(2) recompete the current source of supply for flight sets of the redesigned solid rocket motor.

(e) No later than March 31, 1988, the Administrator shall present to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a comprehensive acquisition plan for the advanced solid rocket motor in accordance with this section.

TITLE II—NATIONAL SPACE GRANT COLLEGE AND FELLOWSHIP PROGRAM

National Space Grant College and Fellowship Act.
Education.
Grants.
Contracts.
42 USC 2486 note.

Sec. 201. This title may be cited as the "National Space Grant College and Fellowship Act".

42 USC 2486.

Sec. 202. The Congress finds that—

(1) the vitality of the Nation and the quality of life of the citizens of the Nation depend increasingly on the understanding, assessment, development, and utilization of space resources;

(2) research and development of space science, space technology, and space commercialization will contribute to the quality of life, national security, and the enhancement of commerce;

(3) the understanding and development of the space frontiers require a broad commitment and an intense involvement on the part of the Federal Government in partnership with State and local governments, private industry, universities, organizations, and individuals concerned with the exploration and utilization of space;

(4) the National Aeronautics and Space Administration, through the national space grant college and fellowship program, offers the most suitable means for such commitment and involvement through the promotion of activities that will result in greater understanding, assessment, development, and utilization; and

(5) Federal support of the establishment, development, and operation of programs and projects by space grant colleges, space grant regional consortia, institutions of higher education, institutes, laboratories, and other appropriate public and private entities is the most cost-effective way to promote such activities.

42 USC 2486a.

Sec. 203. The purposes of this title are to—

(1) increase the understanding, assessment, development, and utilization of space resources by promoting a strong educational

base, responsive research and training activities, and broad and prompt dissemination of knowledge and techniques;

(2) utilize the abilities and talents of the universities of the Nation to support and contribute to the exploration and development of the resources and opportunities afforded by the space environment;

(3) encourage and support the existence of interdisciplinary and multidisciplinary programs of space research within the university community of the Nation, to engage in integrated activities of training, research and public service, to have cooperative programs with industry, and to be coordinated with the overall program of the National Aeronautics and Space Administration;

(4) encourage and support the existence of consortia, made up of university and industry members, to advance the exploration and development of space resources in cases in which national objectives can be better fulfilled than through the programs of single universities;

(5) encourage and support Federal funding for graduate fellowships in fields related to space; and

(6) support activities in colleges and universities generally for the purpose of creating and operating a network of institutional programs that will enhance achievements resulting from efforts under this title.

42 USC 2486b.

SEC. 204. As used in this title, the term—

(1) "Administration" means the National Aeronautics and Space Administration;

(2) "Administrator" means the Administrator of the National Aeronautics and Space Administration;

(3) "aeronautical and space activities" has the meaning given to such term in section 103(1) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2452(1));

(4) "field related to space" means any academic discipline or field of study (including the physical, natural, and biological sciences, and engineering, space technology, education, economics, sociology, communications, planning, law, international affairs, and public administration) which is concerned with or likely to improve the understanding, assessment, development, and utilization of space;

(5) "panel" means the space grant review panel established pursuant to section 210 of this title;

(6) "person" means any individual, any public or private corporation, partnership, or other association or entity (including any space grant college, space grant regional consortium, institution of higher education, institute, or laboratory), or any State, political subdivision of a State, or agency or officer of a State or political subdivision of a State;

(7) "space environment" means the environment beyond the sensible atmosphere of the Earth;

(8) "space grant college" means any public or private institution of higher education which is designated as such by the Administrator pursuant to section 208 of this title;

(9) "space grant program" means any program which—

(A) is administered by any space grant college, space grant regional consortium, institution of higher education, institute, laboratory, or State or local agency; and

(B) includes two or more projects involving education and one or more of the following activities in the fields related to space—

(i) research,

(ii) training, or

(iii) advisory services;

(10) "space grant regional consortium" means any association or other alliance which is designated as such by the Administrator pursuant to section 208 of this title;

(11) "space resource" means any tangible or intangible benefit which can only be realized from—

(A) aeronautical and space activities; or

(B) advancements in any field related to space; and

(12) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or any other territory or possession of the United States.

42 USC 2486c.

SEC. 205. (a) The Administrator shall establish and maintain, within the Administration, a program to be known as the national space grant college and fellowship program. The national space grant college and fellowship program shall consist of the financial assistance and other activities provided for in this title. The Administrator shall establish long-range planning guidelines and priorities, and adequately evaluate the program.

(b) Within the Administration, the program shall—

(1) apply the long-range planning guidelines and the priorities established by the Administrator under subsection (a) of this section;

(2) advise the Administrator with respect to the expertise and capabilities which are available through the national space grant college and fellowship program, and make such expertise available to the Administration as directed by the Administrator;

(3) evaluate activities conducted under grants and contracts awarded pursuant to sections 206 and 207 of this title to assure that the purposes set forth in section 203 of this title are implemented;

(4) encourage other Federal departments, agencies, and instrumentalities to use and take advantage of the expertise and capabilities which are available through the national space grant college and fellowship program, on a cooperative or other basis;

(5) encourage cooperation and coordination with other Federal programs concerned with the development of space resources and fields related to space;

(6) advise the Administrator on the designation of recipients supported by the national space grant college and fellowship program and, in appropriate cases, on the termination or suspension of any such designation; and

(7) encourage the formation and growth of space grant and fellowship programs.

(c) To carry out the provisions of this title, the Administrator may—

Gifts and property.

(1) accept conditional or unconditional gifts or donations of services, money, or property, real, personal or mixed, tangible or intangible;

(2) accept and use funds from other Federal departments, agencies, and instrumentalities to pay for fellowships, grants, contracts, and other transactions; and

Regulations.

(3) issue such rules and regulations as may be necessary and appropriate.

42 USC 2486d.

SEC. 206. (a) The Administrator may make grants and enter into contracts or other transactions under this subsection to assist any space grant and fellowship program or project if the Administrator finds that such program or project will carry out the purposes set forth in section 203 of this title. The total amount paid pursuant to any such grant or contract may equal 66 percent, or any lesser percent, of the total cost of the space grant and fellowship program or project involved, except that this limitation shall not apply in the case of grants or contracts paid for with funds accepted by the Administrator pursuant to section 205(c)(2) of this title.

(b) The Administrator may make special grants under this subsection to carry out the purposes set forth in section 203 of this title. The amount of any such grant may equal 100 percent, or any lesser percent, of the total cost of the project involved. No grant may be made under this subsection, unless the Administrator finds that—

(1) no reasonable means is available through which the applicant can meet the matching requirement for a grant under subsection (a) of this section;

(2) the probable benefit of such project outweighs the public interest in such matching requirement; and

(3) the same or equivalent benefit cannot be obtained through the award of a contract or grant under subsection (a) of this section or section 207 of this title.

Regulations.

(c) Any person may apply to the Administrator for a grant or contract under this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe.

(d)(1) Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in paragraphs (2) and (3) of this subsection and to such other terms, conditions and requirements as the Administrator considers necessary or appropriate.

(2) No payment under any grant or contract under this section may be applied to—

(A) the purchase of any land;

(B) the purchase, construction, preservation, or repair of any building; or

(C) the purchase or construction of any launch facility or launch vehicle.

(3) Notwithstanding paragraph (2) of this subsection, the items in subparagraphs (A), (B), and (C) of such paragraph may be leased upon written approval of the Administrator.

Regulations.

(4) Any person who receives or utilizes any proceeds of any grant or contract under this section shall keep such records as the Administrator shall by regulation prescribe as being necessary and appropriate to facilitate effective audit and evaluation, including records which fully disclose the amount and disposition by such recipient of such proceeds, the total cost of the program or project in connection with which such proceeds were used, and the amount, if any, of such cost which was provided through other sources. Such records shall be maintained for three years after the completion of such a program or project. The Administrator and the Comptroller

General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and evaluation, to any books, documents, papers and records of receipts which, in the opinion of the Administrator or the Comptroller General, may be related or pertinent to such grants and contracts.

42 USC 2486e.

SEC. 207. (a) The Administrator shall identify specific national needs and problems relating to space. The Administrator may make grants or enter into contracts under this section with respect to such needs or problems. The amount of any such grant or contract may equal 100 percent, or any lesser percent, of the total cost of the project involved.

(b) Any person may apply to the Administrator for a grant or contract under this section. In addition, the Administrator may invite applications with respect to specific national needs or problems identified under subsection (a) of this section. Application shall be made in such form and manner, and with such content and other submissions, as the Administrator shall by regulation prescribe. Any grant made, or contract entered into, under this section shall be subject to the limitations and provisions set forth in section 206(d) (2) and (4) of this title and to such other terms, conditions, and requirements as the Administrator considers necessary or appropriate.

42 USC 2486f.

SEC. 208. (a)(1) The Administrator may designate—

(A) any institution of higher education as a space grant college; and

(B) any association or other alliance of two or more persons, other than individuals, as a space grant regional consortium.

(2) No institution of higher education may be designated as a space grant college, unless the Administrator finds that such institution—

(A) is maintaining a balanced program of research, education, training, and advisory services in fields related to space;

(B) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(C) meets such other qualifications as the Administrator considers necessary or appropriate.

(3) No association or other alliance of two or more persons may be designated as a space grant regional consortium, unless the Administrator finds that such association or alliance—

(A) is established for the purpose of sharing expertise, research, educational facilities or training facilities, and other capabilities in order to facilitate research, education, training, and advisory services, in any field related to space;

(B) will encourage and follow a regional approach to solving problems or meeting needs relating to space, in cooperation with appropriate space grant colleges, space grant programs, and other persons in the region;

(C) will act in accordance with such guidelines as are prescribed under subsection (b)(2) of this section; and

(D) meets such other qualifications as the Administrator considers necessary or appropriate.

Regulations.

(b) The Administrator shall by regulation prescribe—

(1) the qualifications required to be met under subsection (a) (2)(C) and (3)(D) of this section; and

(2) guidelines relating to the activities and responsibilities of space grant colleges and space grant regional consortia.

(c) The Administrator may, for cause and after an opportunity for hearing, suspend or terminate any designation under subsection (a) of this section.

42 USC 2486g. SEC. 209. (a) The Administrator shall support a space grant fellowship program to provide educational and training assistance to qualified individuals at the graduate level of education in fields related to space. Such fellowships shall be awarded pursuant to guidelines established by the Administrator. Space grant fellowships shall be awarded to individuals at space grant colleges, space grant regional consortia, other colleges and institutions of higher education, professional associations, and institutes in such a manner as to assure wide geographic and institutional diversity in the pursuit of research under the fellowship program.

(b) The total amount which may be provided for grants under the space grant fellowship program during any fiscal year shall not exceed an amount equal to 50 percent of the total funds appropriated for such year pursuant to this title.

(c) Nothing in this section shall be construed to prohibit the Administrator from sponsoring any research fellowship program, including any special emphasis program, which is established under an authority other than this title.

42 USC 2486h. SEC. 210. (a) The Administrator shall establish an independent committee known as the space grant review panel, which shall not be subject to the provisons of the Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.; Public Law 92-463).

(b) The panel shall take such steps as may be necessary to review, and shall advise the Administrator with respect to—

(1) applications or proposals for, and performance under, grants and contracts awarded pursuant to sections 206 and 207 of this title;

(2) the space grant fellowship program;

(3) the designation and operation of space grant colleges and space grant regional consortia, and the operation of space grant and fellowship programs;

(4) the formulation and application of the planning guidelines and priorities pursuant to section 205 (a) and (b)(1) of this title; and

(5) such other matters as the Administrator refers to the panel for review and advice.

(c) The Administrator shall make available to the panel any information, personnel and administrative services and assistance which is reasonable to carry out the duties of the panel.

(d)(1) The Administrator shall appoint the voting members of the panel. A majority of the voting members shall be individuals who, by reason of knowledge, experience, or training, are especially qualified in one or more of the disciplines and fields related to space. The other voting members shall be individuals who, by reason of knowledge, experience or training, are especially qualified in, or representative of, education, extension services, State government, industry, economics, planning, or any other activity related to efforts to enhance the understanding, assessment, development, or utilization of space resources. The Administrator shall consider the potential conflict of interest of any individual in making appointments to the panel.

(2) The Administrator shall select one voting member to serve as the Chairman and another voting member to serve as the Vice

Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of the Chairman.

(3) Voting members of the panel who are not Federal employees shall be reimbursed for actual and reasonable expenses incurred in the performance of such duties.

(4) The panel shall meet on a biannual basis and, at any other time, at the call of the Chairman or upon the request of a majority of the voting members or of the Administrator.

(5) The panel may exercise such powers as are reasonably necessary in order to carry out the duties enumerated in subsection (b) of this section.

42 USC 2486i.

SEC. 211. Each department, agency or other instrumentality of the Federal Government which is engaged in or concerned with, or which has authority over, matters relating to space—

(1) may, upon a written request from the Administrator, make available, on a reimbursable basis or otherwise, any personnel (with their consent and without prejudice to their position and rating), service, or facility which the Administrator considers necessary to carry out any provision of this title;

(2) may, upon a written request from the Administrator, furnish any available data or other information which the Administrator considers necessary to carry out any provision of this title; and

(3) may cooperate with the Administration.

42 USC 2486j.

SEC. 212. (a) The Administrator shall submit to the Congress and the President, not later than January 1, 1989, and not later than February 15 of every odd-numbered year thereafter, a report on the activities of the national space grant and fellowship program.

(b) The Director of the Office of Management and Budget and the Director of the Office of Science and Technology Policy in the Executive Office of the President shall have the opportunity to review each report prepared pursuant to subsection (a) of this section. Such Directors may submit, for inclusion in such report, comments and recommendations and an independent evaluation of the national space grant college and fellowship program. Such comments and recommendations shall be submitted to the Administrator not later than 90 days before such a report is submitted pursuant to subsection (a) of this section and the Administrator shall include such comments and recommendations as a separate section in such report.

42 USC 2486k.

SEC. 213. The Administrator shall not under this title designate any space grant college or space grant regional consortium or award any fellowship, grant, or contract unless such designation or award is made in accordance with the competitive, merit-based review process employed by the Administration on the date of enactment of this Act.

Appropriation authorization.
42 USC 2486*l*.

SEC. 214. (a) There are authorized to be appropriated for the purposes of carrying out the provisions of this title sums not to exceed—

(1) $10,000,000 for each of fiscal years 1988 and 1989; and

(2) $15,000,000 for each of fiscal years 1990 and 1991.

(b) Such sums as may be appropriated under this section shall remain available until expended.

Land Remote-Sensing Commercialization Act Amendments of 1987.

TITLE III—AMENDMENTS TO THE LAND REMOTE-SENSING COMMERCIALIZATION ACT OF 1984

15 USC 4201 note.

SEC. 301. This title may be cited as the "Land Remote-Sensing Commercialization Act Amendments of 1987".

15 USC 4201 note.

SEC. 302. The Congress finds and declares that—

(1) the implementation of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) has begun and some of the major milestones contained in that Act have been met;

(2) Congress remains strongly committed to the guiding principles set forth in that Act;

(3) notwithstanding the accomplishments thus far, the relationships among the involved Federal agencies and the private sector have not yet been adequately defined; and

(4) inasmuch as the technical development and commercial applications of future land remote-sensing systems cannot now be predicted with certainty, it is in the national interest of the United States that the involved Federal agencies and the private sector remain flexible in carrying out their respective responsibilities under that Act.

15 USC 4201 note.

SEC. 303. It is therefore the purpose of this title to set forth amendments to the Land Remote-Sensing Commercialization Act of 1984 to ensure that—

(1) the original intent of that Act is carried out in the most effective manner consistent with the guiding principles expressed therein;

(2) specific mechanisms for carrying out the original intent of that Act are provided in those cases where none have materialized thus far; and

(3) the working relationships among involved Federal agencies and private sector parties for the purpose of carrying out that Act are fully developed and mutually understood.

SEC. 304. Section 202(a)(4) of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4212(a)(4)) is amended by inserting before the semicolon at the end thereof the following: ", except in the case of research and development activities conducted in accordance with section 504".

SEC. 305. Title III of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4221 et seq.) is amended by adding at the end thereof the following new section:

"DISPOSITION OF GOVERNMENT ASSETS

Contracts. 15 USC 4228.

"SEC. 308. Following the completion of a contract made pursuant to this title, the Secretary may, upon 30 days advance notice to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives, dispose of assets (other than real property) under the control of the Secretary in a manner which best ensures the continuation of the contractor's commercial activity.".

SEC. 306. Section 502 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4262) is amended to read as follows:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF FEDERAL AGENCIES

"SEC. 502. Each Federal agency is authorized and encouraged to provide data gathered in experimental remote-sensing space programs to related research and development programs funded by the Federal Government (including application programs) and to cooperative research programs if the Federal agency involved determines that the data will not be used—

"(1) for any commercial purpose; or

"(2) in substantial competition with data available from a licensee under this Act;

except pursuant to section 503.".

SEC. 307. Title V of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4261 et seq.) is amended by adding at the end thereof the following new section:

"RESEARCH AND DEVELOPMENT ACTIVITIES OF SYSTEM OPERATORS

"SEC. 504. Notwithstanding section 601, any system operator under title II, III, or IV of this Act, or any marketing entity under section 503 of this Act, may provide data for any research and development programs if— 15 USC 4264.

"(1) a complete and timely disclosure of the results of such research and development is made in the open technical literature or is otherwise made publicly available;

"(2) the system operator or marketing entity provides to the Secretary an annual report of all research and development data transactions including the nature of any cooperative agreements and the prices charged for data; and Reports.

"(3) the data are not used for commercial purposes or in substantial competition with data available from a licensee under this Act.".

SEC. 308. Section 603 of the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4273) is amended to read as follows:

"NONREPRODUCTION

"SEC. 603. In addition to such other terms and conditions as the system operator may set forth in compliance with section 601 of this Act, the system operator may require that unenhanced data not be reproduced or disseminated by any foreign or domestic purchaser.".

Approved October 30, 1987.

LEGISLATIVE HISTORY—H.R. 2782 (S. 1164):

HOUSE REPORTS: No. 100-204 (Comm. on Science, Space, and Technology).
CONGRESSIONAL RECORD, Vol. 133 (1987):
 July 9, considered and passed House.
 July 10, considered and passed Senate, amended, in lieu of S. 1164.
 Oct. 8, House concurred in Senate amendment with amendment.
 Oct. 13, Senate concurred in House amendment.

PUBLIC LAW 100-203—DEC. 22, 1987

OMNIBUS BUDGET RECONCILIATION ACT OF 1987

*Public Law 100-203
100th Congress

An Act

Dec. 22, 1987
[H.R. 3545]

To provide for reconciliation pursuant to section 4 of the concurrent resolution on the budget for the fiscal year 1988.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Budget Reconciliation Act of 1987.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Budget Reconciliation Act of 1987".

SEC. 2. TABLE OF CONTENTS.

Title I—Agriculture and related programs.
Title II—National Economic Commission.
Title III—Education programs.
Title IV—Medicare, medicaid, and other health-related programs.
Title V—Energy and environmental programs.
Title VI—Civil service and postal service programs.
Title VII—Veterans' programs.
Title VIII—Budget policy and fiscal procedures.
Title IX—Income security and related programs.
Title X—Revenues.

TITLE V—ENERGY AND ENVIRONMENT PROGRAMS

Subtitle A—Nuclear Waste Amendments

Nuclear Waste Policy Amendments Act of 1987.
42 USC 10101 note.

SEC. 5001. SHORT TITLE.

This subtitle may be cited as the "Nuclear Waste Policy Amendments Act of 1987".

SEC. 5002. DEFINITIONS.

Section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101) is amended by adding at the end the following new paragraphs:

"(30) The term 'Yucca Mountain site' means the candidate site in the State of Nevada recommended by the Secretary to the President under section 112(b)(1)(B) on May 27, 1986.

"(31) The term 'affected unit of local government' means the unit of local government with jurisdiction over the site of a repository or a monitored retrievable storage facility. Such term may, at the discretion of the Secretary, include units of local government that are contiguous with such unit.

"(32) The term 'Negotiator' means the Nuclear Waste Negotiator.

"(33) As used in title IV, the term 'Office' means the Office of the Nuclear Waste Negotiator established under title IV of this Act.

"(34) The term 'monitored retrievable storage facility' means the storage facility described in section 141(b)(1).".

PART A—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

SEC. 5011. FIRST REPOSITORY.

(a) Site Specific Activities.—Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121-10171) is amended by adding at the end the following new subtitle:

"SUBTITLE E—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

"SELECTION OF YUCCA MOUNTAIN SITE

42 USC 10172.

"SEC. 160. (a) IN GENERAL.—(1) The Secretary shall provide for an orderly phase-out of site specific activities at all candidate sites other than the Yucca Mountain site.

"(2) The Secretary shall terminate all site specific activities (other than reclamation activities) at all candidate sites, other than the Yucca Mountain site, within 90 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 1987.

"(b) Effective on the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the State of Nevada shall be eligible to enter into a benefits agreement with the Secretary under section 170.".

(b) SITE RECOMMENDATION TO THE PRESIDENT.—Section 112(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132(b)) is amended by—

(1) striking out paragraph (1)(C) and redesignating the subsequent subparagraphs accordingly; and

(2) in subparagraph (C) [73] (as redesignated) by striking "subparagraphs (B) and (C)" and inserting "subparagraph (B)".

(c) TERMINATION OF CANDIDATE SITE SCREENING.—Section 112 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132) is amended by striking all of subsection (d) and redesignating subsequent subsections accordingly.

(d) TIMELY SITE CHARACTERIZATION.—Section 112 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10132) is amended by striking all of subsection (f) and redesignating subsequent subsections accordingly.

(e) SITE CHARACTERIZATION.—Section 113(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(a)) is amended—

(1) by striking "State involved" and all that follows through "tribe involved" and inserting "State of Nevada"; and

(2) by striking "beginning" and all that follows through "geological media" and inserting "at the Yucca Mountain site".

(f) COMMISSION AND STATES.—Section 113(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(b)) is amended—

(1) in paragraph (1)—

(A) by striking "any candidate site" and inserting "the Yucca Mountain site";

(B) by striking "either" and all that follows through "may be" and insert "the Governor or legislature of the State of Nevada";

(2) in paragraph (2), by striking "at any candidate site" and inserting "at the Yucca Mountain site"; and

(3) in paragraph (3)—

(A) by striking "a candidate site" and inserting "the Yucca Mountain site";

(B) by striking "either"; and

(C) by striking "the State" and all that follows through "may be" and inserting "the State of Nevada".

(g) RESTRICTIONS.—Section 113(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10133(c)) is amended—

(1) in paragraph (1)—

---

[73] Copy read "(C), (as".

(A) by striking "any candidate site" and inserting "the Yucca Mountain site"; and

(B) by striking "such candidate site" each place it appears and inserting "such site";

(2) in paragraph (2), by striking "candidate" each place it appears; and

(3) by striking paragraphs (3) and (4) and inserting the following:

"(3) If the Secretary at any time determines the Yucca Mountain site to be unsuitable for development as a repository, the Secretary shall—

"(A) terminate all site characterization activities at such site;

"(B) notify the Congress, the Governor and legislature of Nevada of such termination and the reasons for such termination;

"(C) remove any high-level radioactive waste, spent nuclear fuel, or other radioactive materials at or in such site as promptly as practicable;

"(D) take reasonable and necessary steps to reclaim the site and to mitigate any significant adverse environmental impacts caused by site characterization activities at such site;

"(E) suspend all future benefits payments under subtitle F with respect to such site; and

"(F) report to Congress not later than 6 months after such determination the Secretary's recommendations for further action to assure the safe, permanent disposal of spent nuclear fuel and high-level radioactive waste, including the need for new legislative authority.". Reports.

(h) HEARINGS AND PRESIDENTIAL RECOMMENDATION.—Section 114(a) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(a)) is amended—

(1) in paragraph (1)—

(A) by striking "each site" through "development of a repository" and inserting "the Yucca Mountain site";

(B) by striking "in which such site is located";

(C) by striking "not less than 3" and all that follows through "subsequent repositories" and inserting "the Yucca Mountain site";

(D) by striking "in which such site" and all that follows through "case may be" and insert "of Nevada";

(E) by striking the sentence beginning with "In making site recommendations";

(F) by amending subparagraph (D) to read as follows:

"(D) a final environmental impact statement prepared for the Yucca Mountain site pursuant to subsection (f) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), together with comments made concerning such environmental impact statement by the Secretary of the Interior, the Council on Environmental Quality, the Administrator, and the Commission, except that the Secretary shall not be required in any such environmental impact statement to consider the need for a repository, the alternatives to geological disposal, or alternative sites to the Yucca Mountain site;"; and

(G) in subparagraph (H), by striking "the State" and all that follows through the end of the sentence and inserting "the State of Nevada";

(2) by striking paragraphs (2) and (3) and inserting the following:

President of U.S.

"(2)(A) If, after recommendation by the Secretary, the President considers the Yucca Mountain site qualified for application for a construction authorization for a repository, the President shall submit a recommendation of such site to Congress.

"(B) The President shall submit with such recommendation a copy of the statement for such site prepared by the Secretary under paragraph (1)."; and

(3) in paragraph (4) by—

(A) striking "(4)(A)" and inserting "(3)(A)";

(B) striking "any site under this subsection" and inserting "the Yucca Mountain site"; and

(C) by striking "report" and inserting "statement".

(i) Submission of Application.—Section 114(b) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(b)) is amended—

(1) by striking "a site for a repository" and inserting "the Yucca Mountain site"; and

(2) by striking "in which" and all that follows through "may be," and inserting "of Nevada".

(j) Commission Action.—Section 114(d) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(d)) is amended in the first sentence—

(1) by striking "than—" and all that follows through "(2) the expiration" and inserting "than the expiration"; and

(2) by striking "(e)(2); whichever occurs later" and inserting "(e)(2)".

(k) Project Decision Schedule.—Section 114(e) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(e)) is amended by striking "repository involved" and inserting "repository".

(l) Environmental Impact Statement.—Section 114(f) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10134(f)) is amended to read as follows:

"(f) Environmental Impact Statement.—(1) Any recommendation made by the Secretary under this section shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.). A final environmental impact statement prepared by the Secretary under such Act shall accompany any recommendation to the President to approve a site for a repository.

"(2) With respect to the requirements imposed by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), compliance with the procedures and requirements of this Act shall be deemed adequate consideration of the need for a repository, the time of the initial availability of a repository, and all alternatives to the isolation of high-level radioactive waste and spent nuclear fuel in a repository.

"(3) For purposes of complying with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and this section, the Secretary need not consider alternate sites to the Yucca Mountain site for the repository to be developed under this subtitle.

"(4) Any environmental impact statement prepared in connection with a repository proposed to be constructed by the Secretary under this subtitle shall, to the extent practicable, be adopted by the Commission in connection with the issuance by the Commission of a construction authorization and license for such repository. To the extent such statement is adopted by the Commission, such adoption shall be deemed to also satisfy the responsibilities of the Commission under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and no further consideration shall be required, except that nothing in this subsection shall affect any independent responsibilities of the Commission to protect the public health and safety under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.).

"(5) Nothing in this Act shall be construed to amend or otherwise detract from the licensing requirements of the Nuclear Regulatory Commission established in title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.).

"(6) In any such statement prepared with respect to the repository to be constructed under this subtitle, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.".

(m) ON-SITE REPRESENTATIVE.—Section 117 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10137) is amended by adding at the end the following new subsection:

"(d) ON-SITE REPRESENTATIVE.—The Secretary shall offer to any State, Indian tribe or unit of local government within whose jurisdiction a site for a repository or monitored retrievable storage facility is located under this title an opportunity to designate a representative to conduct on-site oversight activities at such site. Reasonable expenses of such representatives shall be paid out of the Waste Fund.".

SEC. 5012. SECOND REPOSITORY.

Subtitle E of title I of the Nuclear Waste Policy Act of 1982 (as created by section 5011 of this Act) is amended by adding at the end the following new section:

"SITING A SECOND REPOSITORY

"SEC. 161. (a) CONGRESSIONAL ACTION REQUIRED.—The Secretary may not conduct site-specific activities with respect to a second repository unless Congress has specifically authorized and appropriated funds for such activities. 42 USC 10172a.

"(b) REPORT.—The Secretary shall report to the President and to Congress on or after January 1, 2007, but not later than January 1, 2010, on the need for a second repository.

"(c) TERMINATION OF GRANITE RESEARCH.—Not later than 6 months after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall phase out in an orderly manner funding for all research programs in existence on such date of enactment designed to evaluate the suitability of crystalline rock as a potential repository host medium.

"(d) ADDITIONAL SITING CRITERIA.—In the event that the Secretary at any time after such date of enactment considers any sites in crystalline rock for characterization or selection as a repository, the Secretary shall consider (as a supplement to the siting guidelines under section 112) such potentially disqualifying factors as—

"(1) seasonal increases in population;

"(2) proximity to public drinking water supplies, including those of metropolitan areas; and

"(3) the impact that characterization or siting decisions would have on lands owned or placed in trust by the United States for Indian tribes.".

PART B—MONITORED RETRIEVABLE STORAGE

SEC. 5021. AUTHORIZATION OF MONITORED RETRIEVABLE STORAGE.

Subtitle C of the Nuclear [74] Waste Policy Act of 1982 is amended by adding at the end the following new sections:

"AUTHORIZATION OF MONITORED RETRIEVABLE STORAGE

42 USC 10162. "SEC. 142. (a) NULLIFICATION OF OAK RIDGE SITING PROPOSAL.—The proposal of the Secretary (EC-1022, 100th Congress) to locate a monitored retrievable storage facility at a site on the Clinch River in the Roane County portion of Oak Ridge, Tennessee, with alternative sites on the Oak Ridge Reservation of the Department of Energy and on the former site of a proposed nuclear powerplant in Hartsville, Tennessee, is annulled and revoked. In carrying out the provisions of sections 144 and 145, the Secretary shall make no presumption or preference to such sites by reason of their previous selection.

"(b) AUTHORIZATION.—The Secretary is authorized to site, construct, and operate one monitored retrievable storage facility subject to the conditions described in sections 143 through 149.

"MONITORED RETRIEVABLE STORAGE COMMISSION

42 USC 10163. "SEC. 143. (a) ESTABLISHMENT.—(1)(A) There is established a Monitored Retrievable Storage Review Commission (hereinafter in this section referred to as the 'MRS Commission'), that shall consist of 3 members who shall be appointed by and serve at the pleasure of the President pro tempore of the Senate and the Speaker of the House of Representatives.

"(B) [75] Members of the MRS Commission shall be appointed not later than 30 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 from among persons who as a result of training, experience and attainments are exceptionally well qualified to evaluate the need for a monitored retrievable storage facility as a part of the Nation's nuclear waste management system.

Reports. "(C) The MRS Commission shall prepare a report on the need for a monitored retrievable storage facility as a part of a national nuclear waste management system that achieves the purposes of this Act. In preparing the report under this subparagraph, the MRS Commission shall—

"(i) review the status and adequacy of the Secretary's evaluation of the systems advantages and disadvantages of bringing such a facility into the national nuclear waste disposal system;

"(ii) obtain comment and available data on monitored retrievable storage from affected parties, including States containing potentially acceptable sites;

"(iii) evaluate the utility of a monitored retrievable storage facility from a technical perspective; and

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"(iv) make a recommendation to Congress as to whether such a facility should be included in the national nuclear waste management system in order to achieve the purposes of this Act, including meeting needs for packaging and handling of spent nuclear fuel, improving the flexibility of the repository development schedule, and providing temporary storage of spent nuclear fuel accepted for disposal.

"(2) In preparing the report and making its recommendation under paragraph (1) the MRS Commission shall compare such a facility to the alternative of at-reactor storage of spent nuclear fuel prior to disposal of such fuel in a repository under this Act. Such comparison shall take into consideration the impact on—

"(A) repository design and construction;

"(B) waste package design, fabrication and standardization;

"(C) waste preparation;

"(D) waste transportation systems;

"(E) the reliability of the national system for the disposal of radioactive waste;

"(F) the ability of the Secretary to fulfill contractual commitments of the Department under this Act to accept spent nuclear fuel for disposal; and

"(G) economic factors, including the impact on the costs likely to be imposed on ratepayers of the Nation's electric utilities for temporary at-reactor storage of spent nuclear fuel prior to final disposal in a repository, as well as the costs likely to be imposed on ratepayers of the Nation's electric utilities in building and operating such a facility.

Reports.

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress on June 1, 1989.

"(4)(A)(i) Each member of the MRS Commission shall be paid at the rate provided for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the MRS Commission, and shall receive travel expenses, including per diem in lieu of subsistence in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"(ii) The MRS Commission may appoint and fix compensation, not to exceed the rate of basic pay payable for GS-18 of the General Schedule, for such staff as may be necessary to carry out its functions.

"(B)(i) The MRS Commission may hold hearings, sit and act at such times and places, take such testimony and receive such evidence as the MRS Commission considers appropriate. Any member of the MRS Commission may administer oaths or affirmations to witnesses appearing before the MRS Commission.

"(ii) The MRS Commission may request any Executive agency, including the Department, to furnish such assistance or information, including records, data, files, or documents, as the Commission considers necessary to carry out its functions. Unless prohibited by law, such agency shall promptly furnish such assistance or information.

"(iii) To the extent permitted by law, the Administrator of the General Services Administration shall, upon request of the MRS Commission, provide the MRS Commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(iv) The MRS Commission may procure temporary and intermittent services from experts and consultants to the same extent as is authorized by section 3109(b) of title 5, United States Code, at rates and under such rules as the MRS Commission considers reasonable.

"(C) The MRS Commission shall cease to exist 60 days after the submission to Congress of the report required under this subsection.

"SURVEY

42 USC 10164. "Sec. 144. After the MRS Commission submits its report to the Congress under section 143, the Secretary may conduct a survey and evaluation of potentially suitable sites for a monitored retrievable storage facility. In conducting such survey and evaluation, the Secretary shall consider the extent to which siting a monitored retrievable storage facility at each site surveyed would—

"(1) enhance the reliability and flexibility of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act;

"(2) minimize the impacts of transportation and handling of such fuel and waste;

"(3) provide for public confidence in the ability of such system to safely dispose of the fuel and waste;

"(4) impose minimal adverse effects on the local community and the local environment;

"(5) provide a high probability that the facility will meet applicable environmental, health, and safety requirements in a timely fashion;

"(6) provide such other benefits to the system for the disposal of spent nuclear fuel and high-level radioactive waste as the Secretary deems appropriate; and

"(7) unduly burden a State in which significant volumes of high-level radioactive waste resulting from atomic energy defense activities are stored.

"SITE SELECTION

42 USC 10165. "Sec. 145. (a) In General.—The Secretary may select the site evaluated under section 144 that the Secretary determines on the basis of available information to be the most suitable for a monitored retrievable storage facility that is an integral part of the system for the disposal of spent nuclear fuel and high-level radioactive waste established under this Act.

"(b) Limitation.—The Secretary may not select a site under subsection (a) until the Secretary recommends to the President the approval of a site for development as a repository under section 114(a).

"(c) Site Specific Activities.—The Secretary may conduct such site specific activities at each site surveyed under section 144 as he determines may be necessary to support an application to the Commission for a license to construct a monitored retrievable storage facility at such site.

"(d) Environmental Assessment.—Site specific activities and selection of a site under this section shall not require the preparation of an environmental impact statement under section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Secretary shall prepare an environmental assessment with respect to such selection in accordance with regulations issued by the Secretary implementing such Act. Such environmental assessment shall be based upon available information regarding alternative technologies for the storage of spent nuclear fuel and high-level radioactive waste. The Secretary shall submit such environmental assessment to the Congress at the time such site is selected.

"(e) NOTIFICATION BEFORE SELECTION.—(1) At least 6 months before selecting a site under subsection (a), the Secretary shall notify the Governor and legislature of the State in which such site is located, or the governing body of the affected Indian tribe where such site is located, as the case may be, of such potential selection and the basis for such selection.

"(2) Before selecting any site under subsection (a), the Secretary shall hold at least one public hearing in the vicinity of such site to solicit any recommendations of interested parties with respect to issues raised by the selection of such site.

"(f) NOTIFICATION OF SELECTION.—The Secretary shall promptly notify Congress and the appropriate State or Indian tribe of the selection under subsection (a).

"(g) LIMITATION.—No monitored retrievable storage facility authorized pursuant to section 142(b) may be constructed in the State of Nevada.

"NOTICE OF DISAPPROVAL

"SEC. 146. (a) IN GENERAL.—The selection of a site under section 145 shall be effective at the end of the period of 60 calendar days beginning on the date of notification under such subsection, unless the governing body of the Indian tribe on whose reservation such site is located, or, if the site is not on a reservation, the Governor and the legislature of the State in which the site is located, has submitted to Congress a notice of disapproval with respect to such site. If any such notice of disapproval has been submitted under this subsection, the selection of the site under section 145 shall not be effective except as provided under section 115(c). 42 USC 10166.

"(b) REFERENCES.—For purposes of carrying out the provisions of this subsection, references in section 115(c) to a repository shall be considered to refer to a monitored retrievable storage facility and references to a notice of disapproval of a repository site designation under section 116(b) or 118(a) shall be considered to refer to a notice of disapproval under this section.

"BENEFITS AGREEMENT

"SEC. 147. Once selection of a site for a monitored retrievable storage facility is made by the Secretary under section 145, the Indian tribe on whose reservation the site is located, or, in the case that the site is not located on a reservation, the State in which the site is located, shall be eligible to enter into a benefits agreement with the Secretary under section 170. 42 USC 10167.

"CONSTRUCTION AUTHORIZATION

"SEC. 148. (a) ENVIRONMENTAL IMPACT STATEMENT.—(1) Once the selection of a site is effective under section 146, the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall apply with respect to construction of a monitored retrievable storage facility, except that any environmental impact statement prepared with respect to such facility shall not be required to 42 USC 10168.

consider the need for such facility or any alternative to the design criteria for such facility set forth in section 141(b)(1).

"(2) Nothing in this section shall be construed to limit the consideration of alternative facility designs consistent with the criteria described in section 141(b)(1) in any environmental impact statement, or in any licensing procedure of the Commission, with respect to any monitored retrievable storage facility authorized under section 142(b).

"(b) APPLICATION FOR CONSTRUCTION LICENSE.—Once the selection of a site for a monitored retrievable storage facility is effective under section 146, the Secretary may submit an application to the Commission for a license to construct such a facility as part of an integrated nuclear waste management system and in accordance with the provisions of this section and applicable agreements under this Act affecting such facility.

"(c) LICENSING.—Any monitored retrievable storage facility authorized pursuant to section 142(b) shall be subject to licensing under section 202(3) of the Energy Reorganization Act of 1974 (42 U.S.C. 5842(3)). In reviewing the application filed by the Secretary for licensing of such facility, the Commission may not consider the need for such facility or any alternative to the design criteria for such facility set forth in section 141(b)(1).

"(d) LICENSING CONDITIONS.—Any license issued by the Commission for a monitored retrievable storage facility under this section shall provide that—

"(1) construction of such facility may not begin until the Commission has issued a license for the construction of a repository under section 115(d);

"(2) construction of such facility or acceptance of spent nuclear fuel or high-level radioactive waste shall be prohibited during such time as the repository license is revoked by the Commission or construction of the repository ceases;

"(3) the quantity of spent nuclear fuel or high-level radioactive waste at the site of such facility at any one time may not exceed 10,000 metric tons of heavy metal until a repository under this Act first accepts spent nuclear fuel or solidified high-level radioactive waste; and

"(4) the quantity of spent nuclear fuel or high-level radioactive waste at the site of such facility at any one time may not exceed 15,000 metric tons of heavy metal.

"FINANCIAL ASSISTANCE

42 USC 10169.

"SEC. 149. The provisions of section 116(c) or 118(b) with respect to grants, technical assistance, and other financial assistance shall apply to the State, to affected Indian tribes and to affected units of local government in the case of a monitored retrievable storage facility in the same manner as for a repository.".

PART C—BENEFITS

SEC. 5031. BENEFITS.

Title I of the Nuclear Waste Policy Act of 1982 is further amended by adding at the end the following new subtitles:

"Subtitle F—Benefits

"BENEFITS AGREEMENTS

"Sec. 170. (a) In General.—(1) The Secretary may enter into a benefits agreement with the State of Nevada concerning a repository or with a State or an Indian tribe concerning a monitored retrievable storage facility for the acceptance of high-level radioactive waste or spent nuclear fuel in that State or on the reservation of that tribe, as appropriate. 42 USC 10173.

"(2) The State or Indian tribe may enter into such an agreement only if the State Attorney General or the appropriate governing authority of the Indian tribe or the Secretary of the Interior, in the absence of an appropriate governing authority, as appropriate, certifies to the satisfaction of the Secretary that the laws of the State or Indian tribe provide adequate authority for that entity to enter into the benefits agreement.

"(3) Any benefits agreement with a State under this section shall be negotiated in consultation with affected units of local government in such State.

"(4) Benefits and payments under this subtitle may be made available only in accordance with a benefits agreement under this section.

"(b) Amendment.—A benefits agreement entered into under subsection (a) may be amended only by the mutual consent of the parties to the agreement and terminated only in accordance with section 173.

"(c) Agreement With Nevada.—The Secretary shall offer to enter into a benefits agreement with the Governor of Nevada. Any benefits agreement with a State under this subsection shall be negotiated in consultation with any affected units of local government in such State.

"(d) Monitored Retrievable Storage.—The Secretary shall offer to enter into a benefits agreement relating to a monitored retrievable storage facility with the governing body of the Indian tribe on whose reservation the site for such facility is located, or, if the site is not located on a reservation, with the Governor of the State in which the site is located and in consultation with affected units of local government in such State.

"(e) Limitation.—Only one benefits agreement for a repository and only one benefits agreement for a monitored retrievable storage facility may be in effect at any one time.

"(f) Judicial Review.—Decisions of the Secretary under this section are not subject to judicial review.

"CONTENT OF AGREEMENTS

"Sec. 171. (a) In General.—(1) In addition to the benefits to which a State, an affected unit of local government or Indian tribe is entitled under title I, the Secretary shall make payments to a State or Indian tribe that is a party to a benefits agreement under section 170 in accordance with the following schedule: 42 USC 10173a.

"BENEFITS SCHEDULE

(amounts in $ millions)

Event	MRS	Repository
(A) Annual payments prior to first spent fuel receipt	5	10
(B) Upon first spent fuel receipt	10	20
(C) Annual payments after first spent fuel receipt until closure of the facility	10	20

"(2) For purposes of this section, the term—

"(A) 'MRS' means a monitored retrievable storage facility,

"(B) 'spent fuel' means high-level radioactive waste or spent nuclear fuel, and

"(C) 'first spent fuel receipt' does not include receipt of spent fuel or high-level radioactive waste for purposes of testing or operational demonstration.

"(3) Annual payments prior to first spent fuel receipt under paragraph (1)(A) shall be made on the date of execution of the benefits agreement and thereafter on the anniversary date of such execution. Annual payments after the first spent fuel receipt until closure of the facility under paragraph (1)(C) shall be made on the anniversary date of such first spent fuel receipt.

"(4) If the first spent fuel payment under paragraph (1)(B) is made within six months after the last annual payment prior to the receipt of spent fuel under paragraph (1)(A), such first spent fuel payment under paragraph (1)(B) shall be reduced by an amount equal to one-twelfth of such annual payment under paragraph (1)(A) for each full month less than six that has not elapsed since the last annual payment under paragraph (1)(A).

"(5) Notwithstanding paragraph (1), (2), or (3), no payment under this section may be made before January 1, 1989, and any payment due under this title before January 1, 1989, shall be made on or after such date.

"(6) Except as provided in paragraph (7), the Secretary may not restrict the purposes for which the payments under this section may be used.

"(7)(A) Any State receiving a payment under this section shall transfer an amount equal to not less than one-third of the amount of such payment to affected units of local government of such State.

"(B) A plan for this transfer and appropriate allocation of such portion among such governments shall be included in the benefits agreement under section 170 covering such payments.

"(C) In the event of a dispute concerning such plan, the Secretary shall resolve such dispute, consistent with this Act and applicable State law.

"(b) CONTENTS.—A benefits agreement under section 170 shall provide that—

"(1) a Review Panel be established in accordance with section 172;

"(2) the State or Indian tribe that is party to such agreement waive its rights under title I to disapprove the recommendation of a site for a repository;

"(3) the parties to the agreement shall share with one another information relevant to the licensing process for the repository or monitored retrievable storage facility, as it becomes available;

"(4) the State or Indian tribe that is party to such agreement participate in the design of the repository or monitored retrievable storage facility and in the preparation of documents required under law or regulation governing the effects of the facility on the public health and safety; and

"(5) the State or Indian tribe waive its rights, if any, to impact assistance under sections 116(c)(1)(B)(ii), 116(c)(2), 118(b)(2)(A)(ii), and 118(b)(3).

"(c) The Secretary shall make payments to the States or affected Indian tribes under a benefits agreement under this section from the Waste Fund. The signature of the Secretary on a valid benefits agreement under section 170 shall constitute a commitment by the United States to make payments in accordance with such agreement.

"REVIEW PANEL

"SEC. 172. (a) IN GENERAL.—The Review Panel required to be established by section 171(b)(1) of this Act shall consist of a Chairman selected by the Secretary in consultation with the Governor of the State or governing body of the Indian tribe, as appropriate, that is party to such agreement and 6 other members as follows: 42 USC 10173b.

"(1) 2 members selected by the Governor of such State or governing body of such Indian tribe;

"(2) 2 members selected by units of local government affected by the repository or monitored retrievable storage facility;

"(3) 1 member to represent persons making payments into the Waste Fund, to be selected by the Secretary; and

"(4) 1 member to represent other public interests, to be selected by the Secretary.

"(b) TERMS.—(1) The members of the Review Panel shall serve for terms of 4 years each.

"(2) Members of the Review Panel who are not full-time employees of the Federal Government, shall receive a per diem compensation for each day spent conducting work of the Review Panel, including their necessary travel or other expenses while engaged in the work of the Review Panel.

"(3) Expenses of the Panel shall be paid by the Secretary from the Waste Fund.

"(c) DUTIES.—The Review Panel shall—

"(1) advise the Secretary on matters relating to the proposed repository or monitored retrievable storage facility, including issues relating to design, construction, operation, and decommissioning of the facility;

"(2) evaluate performance of the repository or monitored retrievable storage facility, as it considers appropriate;

"(3) recommend corrective actions to the Secretary;

"(4) assist in the presentation of State or affected Indian tribe and local perspectives to the Secretary; and

"(5) participate in the planning for and the review of preoperational data on environmental, demographic, and socioeconomic conditions of the site and the local community.

"(d) INFORMATION.—The Secretary shall promptly make available promptly any information in the Secretary's possession requested by the Panel or its Chairman.

"(e) FEDERAL ADVISORY COMMITTEE ACT.—The requirements of the Federal Advisory Committee Act shall not apply to a Review Panel established under this title.

"TERMINATION

42 USC 10173c. "SEC. 173. (a) IN GENERAL.—The Secretary may terminate a benefits agreement under this title if—

"(1) the site under consideration is disqualified for its failure to comply with guidelines and technical requirements established by the Secretary in accordance with this Act; or

"(2) the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(b) TERMINATION BY STATE OR INDIAN TRIBE.—A State or Indian tribe may terminate a benefits agreement under this title only if the Secretary disqualifies the site under consideration for its failure to comply with technical requirements established by the Secretary in accordance with this Act or the Secretary determines that the Commission cannot license the facility within a reasonable time.

"(c) DECISIONS OF THE SECRETARY.—Decisions of the Secretary under this section shall be in writing, shall be available to Congress and the public, and are not subject to judicial review.

"SUBTITLE G—OTHER BENEFITS

"CONSIDERATION IN SITING FACILITIES

42 USC 10174. "SEC. 174. The Secretary, in siting Federal research projects, shall give special consideration to proposals from States where a repository is located.

"REPORT

42 USC 10174a. "SEC. 175. (a) IN GENERAL.—Within one year of the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall report to Congress on the potential impacts of locating a repository at the Yucca Mountain site, including the recommendations of the Secretary for mitigation of such impacts and a statement of which impacts should be dealt with by the Federal Government, which should be dealt with by the State with State resources, including the benefits payments under section 171, and which should be a joint Federal-State responsibility. The report under this subsection shall include the analysis of the Secretary of the authorities available to mitigate these impacts and the appropriate sources of funds for such mitigation.

"(b) IMPACTS TO BE [76] CONSIDERED.—Potential impacts to be addressed in the report under this subsection (a) shall include impacts on—

"(1) education, including facilities and personnel for elementary and secondary schools, community colleges, vocational and technical schools and universities;

"(2) public health, including the facilities and personnel for treatment and distribution of water, the treatment of sewage, the control of pests and the disposal of solid waste;

"(3) law enforcement, including facilities and personnel for the courts, police and sheriff's departments, district attorneys and public defenders and prisons;

"(4) fire protection, including personnel, the construction of fire stations, and the acquisition of equipment;

"(5) medical care, including emergency services and hospitals;

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"(6) cultural and recreational needs, including facilities and personnel for libraries and museums and the acquisition and expansion of parks;

"(7) distribution of public lands to allow for the timely expansion of existing, or creation of new, communities and the construction of necessary residential and commercial facilities;

"(8) vocational training and employment services;

"(9) social services, including public assistance programs, vocational and physical rehabilitation programs, mental health services, and programs relating to the abuse of alcohol and controlled substances;

"(10) transportation, including any roads, terminals, airports, bridges, or railways associated with the facility and the repair and maintenance of roads, terminals, airports, bridges, or railways damaged as a result of the construction, operation, and closure of the facility;

"(11) equipment and training for State and local personnel in the management of accidents involving high-level radioactive waste;

"(12) availability of energy;

"(13) tourism and economic development, including the potential loss of revenue and future economic growth; and

"(14) other needs of the State and local governments that would not have arisen but for the characterization of the site and the construction, operation, and eventual closure of the repository facility.".

SEC. 5032. PARTICIPATION OF STATES.

(a) Financial Assistance.—Section 116(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10136(c)) is amended to read as follows:

"(c) Financial Assistance.—(1)(A) The Secretary shall make grants to the State of Nevada and any affected unit of local government for the purpose of participating in activities required by this section and section 117 or authorized by written agreement entered into pursuant to section 117(c). Any salary or travel expense that would ordinarily be incurred by such State or affected unit of local government, may not be considered eligible for funding under this paragraph.

"(B) The Secretary shall make grants to the State of Nevada and any affected unit of local government for purposes of enabling such State or affected unit of local government— Grants.

"(i) to review activities taken under this subtitle with respect to the Yucca Mountain site for purposes of determining any potential economic, social, public health and safety, and environmental impacts of a repository on such State, or affected unit of local government and its residents;

"(ii) to develop a request for impact assistance under paragraph (2);

"(iii) to engage in any monitoring, testing, or evaluation activities with respect to site characterization programs with regard to such site;

"(iv) to provide information to Nevada residents regarding any activities of such State, the Secretary, or the Commission with respect to such site; and

"(v) to request information from, and make comments and recommendations to, the Secretary regarding any activities taken under this subtitle with respect to such site.

"(C) Any salary or travel expense that would ordinarily be incurred by the State of Nevada or any affected unit of local government may not be considered eligible for funding under this paragraph.

"(2)(A)(i) The Secretary shall provide financial and technical assistance to the State of Nevada, and any affected unit of local government requesting such assistance.

"(ii) Such assistance shall be designed to mitigate the impact on such State or affected unit of local government of the development of such repository and the characterization of such site.

"(iii) Such assistance to such State or affected unit of local government of such State shall commence upon the initiation of site characterization activities.

Reports.

"(B) The State of Nevada and any affected unit of local government may request assistance under this subsection by preparing and submitting to the Secretary a report on the economic, social, public health and safety, and environmental impacts that are likely to result from site characterization activities at the Yucca Mountain site. Such report shall be submitted to the Secretary after the Secretary has submitted to the State a general plan for site characterization activities under section 113(b).

"(C) As soon as practicable after the Secretary has submitted such site characterization plan, the Secretary shall seek to enter into a binding agreement with the State of Nevada setting forth—

"(i) the amount of assistance to be provided under this subsection to such State or affected unit of local government; and

"(ii) the procedures to be followed in providing such assistance.

Grants.

"(3)(A) In addition to financial assistance provided under paragraphs (1) and (2), the Secretary shall grant to the State of Nevada and any affected unit of local government an amount each fiscal year equal to the amount such State or affected unit of local government, respectively, would receive if authorized to tax site characterization activities at such site, and the development and operation of such repository, as such State or affected unit of local government taxes the non-Federal real property and industrial activities occurring within such State or affected unit of local government.

"(B) Such grants shall continue until such time as all such activities, development, and operation are terminated at such site.

Grants.

"(4)(A) The State of Nevada or any affected unit of local government may not receive any grant under paragraph (1) after the expiration of the 1-year period following—

"(i) the date on which the Secretary notifies the Governor and legislature of the State of Nevada of the termination of site characterization activities at the site in such State;

"(ii) the date on which the Yucca Mountain site is disapproved under section 115; or

"(iii) the date on which the Commission disapproves an application for a construction authorization for a repository at such site;

whichever occurs first.

"(B) The State of Nevada or any affected unit of local government may not receive any further assistance under paragraph (2) with respect to a site if repository construction activities or site characterization activities at such site are terminated by the Secretary or if such activities are permanently enjoined by any court.

"(C) At the end of the 2-year period beginning on the effective date of any license to receive and possess for a repository in a State, no Federal funds, shall be made available to such State or affected unit of local government under paragraph (1) or (2), except for—

"(i) such funds as may be necessary to support activities related to any other repository located in, or proposed to be located in, such State, and for which a license to receive and possess has not been in effect for more than 1 year;

"(ii) such funds as may be necessary to support State activities pursuant to agreements or contracts for impact assistance entered into, under paragraph (2), by such State with the Secretary during such 2-year period; and

"(iii) such funds as may be provided under an agreement entered into under title IV.

"(5) Financial assistance authorized in this subsection shall be made out of amounts held in the Waste Fund.

"(6) No State, other than the State of Nevada, may receive financial assistance under this subsection after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.".

SEC. 5033. PARTICIPATION OF INDIAN TRIBES.

Section 118(b)(5) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10138(b)(5)) is amended by—

(1) striking "or" at the end of clause (ii); and

(2) adding at the end the following new clause:

"(iv) the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987;".

PART D—NUCLEAR WASTE NEGOTIATOR

SEC. 5041. NUCLEAR WASTE NEGOTIATOR.

The Nuclear Waste Policy Act of 1982 is amended by adding at the end the following new title:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"DEFINITION

"SEC. 401. For purposes of this title, the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, any other territory or possession of the United States, and the Republic of the Marshall Islands. 42 USC 10241.

"THE OFFICE OF THE NUCLEAR WASTE NEGOTIATOR

"SEC. 402. (a) ESTABLISHMENT.—There is established within the Executive Office of the President the Office of the Nuclear Waste Negotiator. 42 USC 10242.

"(b) THE NUCLEAR WASTE NEGOTIATOR.—(1) The Office shall be headed by a Nuclear Waste Negotiator who shall be appointed by the President, by and with the advice and consent of the Senate. The Negotiator shall hold office at the pleasure of the President, and shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code. President of U.S.

"(2) The Negotiator shall attempt to find a State or Indian tribe willing to host a repository or monitored retrievable storage facility at a technically qualified site on reasonable terms and shall negotiate with any State or Indian tribe which expresses an interest in hosting a repository or monitored retrievable storage facility.

"DUTIES OF THE NEGOTIATOR

42 USC 10243.

"SEC. 403. (a) NEGOTIATIONS WITH POTENTIAL HOSTS.—(1) The Negotiator shall—

"(A) seek to enter into negotiations on behalf of the United States, with—

"(i) the Governor of any State in which a potential site is located; and

"(ii) the governing body of any Indian tribe on whose reservation a potential site is located; and

"(B) attempt to reach a proposed agreement between the United States and any such State or Indian tribe specifying the terms and conditions under which such State or tribe would agree to host a repository or monitored retrievable storage facility within such State or reservation.

"(2) In any case in which State law authorizes any person or entity other than the Governor to negotiate a proposed agreement under this section on behalf of the State, any reference in this title to the Governor shall be considered to refer instead to such other person or entity.

"(b) CONSULTATION WITH AFFECTED STATES, SUBDIVISIONS OF STATES, AND TRIBES.—In addition to entering into negotiations under subsection (a), the Negotiator shall consult with any State, affected unit of local government, or any Indian tribe that the Negotiator determines may be affected by the siting of a repository or monitored retrievable storage facility and may include in any proposed agreement such terms and conditions relating to the interest of such States, affected units of local government, or Indian tribes as the Negotiator determines to be reasonable and appropriate.

"(c) CONSULTATION WITH OTHER FEDERAL AGENCIES.—The Negotiator may solicit and consider the comments of the Secretary, the Nuclear Regulatory Commission, or any other Federal agency on the suitability of any potential site for site characterization. Nothing in this subsection shall be construed to require the Secretary, the Nuclear Regulatory Commission, or any other Federal agency to make a finding that any such site is suitable for site characterization.

"(d) PROPOSED AGREEMENT.—(1) The Negotiator shall submit to the Congress any proposed agreement between the United States and a State or Indian tribe negotiated under subsection (a) and an environmental assessment prepared under section 404(a) for the site concerned.

"(2) Any such proposed agreement shall contain such terms and conditions (including such financial and institutional arrangements) as the Negotiator and the host State or Indian tribe determine to be reasonable and appropriate and shall contain such provisions as are necessary to preserve any right to participation or compensation of such State, affected unit of local government, or Indian tribe under sections 116(c), 117, and 118(b).

"(3)(A) No proposed agreement entered into under this section shall have legal effect unless enacted into Federal law.

"(B) A State or Indian tribe shall enter into an agreement under this section in accordance with the laws of such State or tribe Nothing in this section may be construed to prohibit the disapproval of a proposed agreement between a State and the United States under this section by a referendum or an act of the legislature of such State.

"(4) Notwithstanding any proposed agreement under this section, the Secretary may construct a repository or monitored retrievable storage facility at a site agreed to under this title only if authorized by the Nuclear Regulatory Commission in accordance with the Atomic Energy Act of 1954 (42 U.S.C. 2012 et seq.), title II of the Energy Reorganization Act of 1982 (42 U.S.C. 5841 et seq.) and any other law applicable to authorization of such construction.

"ENVIRONMENTAL ASSESSMENT OF SITES

"SEC. 404. (a) IN GENERAL.—Upon the request of the Negotiator, the Secretary shall prepare an environmental assessment of any site that is the subject of negotiations under section 403(a). 42 USC 10244.

"(b) CONTENTS.—(1) Each environmental assessment prepared for a repository site shall include a detailed statement of the probable impacts of characterizing such site and the construction and operation of a repository at such site.

"(2) Each environmental assessment prepared for a monitored retrievable storage facility site shall include a detailed statement of the probable impacts of construction and operation of such a facility at such site.

"(c) JUDICIAL REVIEW.—The issuance of an environmental assessment under subsection (a) shall be considered to be a final agency action subject to judicial review in accordance with the provisions of chapter 7 of title 5, United States Code, and section 119.

"(d) PUBLIC HEARINGS.—(1) In preparing an environmental assessment for any repository or monitored retrievable storage facility site, the Secretary shall hold public hearings in the vicinity of such site to inform the residents of the area in which such site is located that such site is being considered and to receive their comments.

"(2) At such hearings, the Secretary shall solicit and receive any recommendations of such residents with respect to issues that should be addressed in the environmental assessment required under subsection (a) and the site characterization plan described in section 113(b)(1).

"(e) PUBLIC AVAILABILITY.—Each environmental assessment prepared under subsection (a) shall be made available to the public.

"(f) EVALUATION OF SITES.—(1) In preparing an environmental assessment under subsection (a), the Secretary shall use available geophysical, geologic, geochemical and hydrologic, and other information and shall not conduct any preliminary borings or excavations at any site that is the subject of such assessment unless—

"(A) such preliminary boring or excavation activities were in progress on or before the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987; or

"(B) the Secretary certifies that, in the absence of preliminary borings or excavations, adequate information will not be available to satisfy the requirements of this Act or any other law.

"(2) No preliminary boring or excavation conducted under this section shall exceed a diameter of 40 inches.

"SITE CHARACTERIZATION; LICENSING

42 USC 10245. "SEC. 405. (a) SITE CHARACTERIZATION.—Upon enactment of legislation to implement an agreement to site a repository negotiated under section 403(a), the Secretary shall conduct appropriate site characterization activities for the site that is the subject of such agreement subject to the conditions and terms of such agreement. Any such site characterization activities shall be conducted in accordance with section 113, except that references in such section to the Yucca Mountain site and the State of Nevada shall be deemed to refer to the site that is the subject of the agreement and the State or Indian tribe entering into the agreement.

"(b) LICENSING.—(1) Upon the completion of site characterization activities carried out under subsection (a), the Secretary shall submit to the Nuclear Regulatory Commission an application for construction authorization for a repository at such site.

"(2) The Nuclear Regulatory Commission shall consider an application for a construction authorization for a repository or monitored retrievable storage facility in accordance with the laws applicable to such applications, except that the Nuclear Regulatory Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than 3 years after the date of the submission of such application.

"MONITORED RETRIEVABLE STORAGE

42 USC 10246. "SEC. 406. (a) CONSTRUCTION AND OPERATION.—Upon enactment of legislation to implement an agreement negotiated under section 403(a) to site a monitored retrievable storage facility, the Secretary shall construct and operate such facility as part of an integrated nuclear waste management system in accordance with the terms and conditions of such agreement.

Grants. "(b) FINANCIAL ASSISTANCE.—The Secretary may make grants to any State, Indian tribe, or affected unit of local government to assess the feasibility of siting a monitored retrievable storage facility under this section at a site under the jurisdiction of such State, tribe, or affected unit of local government.

"ENVIRONMENTAL IMPACT STATEMENT

42 USC 10247. "SEC. 407. (a) IN GENERAL.—Issuance of a construction authorization for a repository or monitored retrievable storage facility under section 405(b) shall be considered a major Federal action significantly affecting the quality of the human environment for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

"(b) PREPARATION.—A final environmental impact statement shall be prepared by the Secretary under such Act and shall accompany any application to the Nuclear Regulatory Commission for a construction authorization.

"(c) ADOPTION.—(1) Any such environmental impact statement shall, to the extent practicable, be adopted by the Nuclear Regulatory Commission, in accordance with section 1506.3 of title 40, Code of Federal Regulations, in connection with the issuance by the Nuclear Regulatory Commission of a construction authorization and license for such repository or monitored retrievable storage facility.

"(2)(A) In any such statement prepared with respect to a repository to be constructed under this title at the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, alternate sites to the Yucca Mountain site, or nongeologic alternatives to such site.

"(B) In any such statement prepared with respect to a repository to be constructed under this title at a site other than the Yucca Mountain site, the Nuclear Regulatory Commission need not consider the need for a repository, the time of initial availability of a repository, or nongeologic alternatives to such site but shall consider the Yucca Mountain site as an alternate to such site in the preparation of such statement.

"ADMINISTRATIVE POWERS OF THE NEGOTIATOR

"SEC. 408. In carrying out his functions under this title, the Negotiator may— 42 USC 10248.

"(1) appoint such officers and employees as he determines to be necessary and prescribe their duties;

"(2) obtain services as authorized by section 3109 of title 5, United States Code, at rates not to exceed the rate prescribed for grade GS-18 of the General Schedule by section 5332 of title 5, United States Code;

"(3) promulgate such rules and regulations as may be necessary to carry out such functions;

"(4) utilize the services, personnel, and facilities of other Federal agencies (subject to the consent of the head of any such agency);

"(5) for purposes of performing administrative functions under this title, and to the extent funds are appropriated, enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary and on such terms as the Negotiator determines to be appropriate, with any agency or instrumentality of the United States, or with any public or private person or entity; Contracts.

"(6) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code;

"(7) adopt an official seal, which shall be judicially noticed;

"(8) use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States;

"(9) hold such hearings as are necessary to determine the views of interested parties and the general public; and

"(10) appoint advisory committees under the Federal Advisory Committee Act (5 U.S.C. App.).

"COOPERATION OF OTHER DEPARTMENTS AND AGENCIES

"SEC. 409. Each department, agency, and instrumentality of the United States, including any independent agency, may furnish the Negotiator such information as he determines to be necessary to carry out his functions under this title. 42 USC 10249.

"TERMINATION OF THE OFFICE

"SEC. 410. The Office shall cease to exist not later than 30 days after the date 5 years after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987. 42 USC 10250.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 10251. "Sec. 411. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section, such sums as may be necessary to carry out the provisions of this title.".

PART E—NUCLEAR WASTE TECHNICAL REVIEW BOARD

SEC. 5051. NUCLEAR WASTE TECHNICAL REVIEW BOARD.

The Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) is further amended by adding at the end the following new title:

"TITLE V—NUCLEAR WASTE TECHNICAL REVIEW BOARD

"DEFINITIONS

42 USC 10261. "Sec. 501. As used in this title:

"(1) The term 'Chairman' means the Chairman of the Nuclear Waste Technical Review Board.

"(2) The term 'Board' means the Nuclear Waste Technical Review Board established under section 502.

"NUCLEAR WASTE TECHNICAL REVIEW BOARD

42 USC 10262. "Sec. 502. (a) Establishment.—There is established a Nuclear Waste Technical Review Board that shall be an independent establishment within the executive branch.

President of U.S. "(b) Members.—(1) The Board shall consist of 11 members who shall be appointed by the President not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 from among persons nominated by the National Academy of Sciences in accordance with paragraph (3).

President of U.S. "(2) The President shall designate a member of the Board to serve as chairman.

"(3)(A) The National Academy of Sciences shall, not later than 90 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, nominate not less than 22 persons for appointment to the Board from among persons who meet the qualifications described in subparagraph (C).

"(B) The National Academy of Sciences shall nominate not less than 2 persons to fill any vacancy on the Board from among persons who meet the qualifications described in subparagraph (C).

"(C)(i) Each person nominated for appointment to the Board shall be—

"(I) eminent in a field of science or engineering, including environmental sciences; and

"(II) selected solely on the basis of established records of distinguished service.

"(ii) The membership of the Board shall be representative of the broad range of scientific and engineering disciplines related to activities under this title.

"(iii) No person shall be nominated for appointment to the Board who is an employee of—

"(I) the Department of Energy;

"(II) a national laboratory under contract with the Department of Energy; or

"(III) an entity performing high-level radioactive waste or spent nuclear fuel activities under contract with the Department of Energy.

"(4) Any vacancy on the Board shall be filled by the nomination and appointment process described in paragraphs (1) and (3).

"(5) Members of the Board shall be appointed for terms of 4 years, each such term to commence 120 days after the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, except that of the 11 members first appointed to the Board, 5 shall serve for 2 years and 6 shall serve for 4 years, to be designated by the President at the time of appointment.

"FUNCTIONS

"SEC. 503. The Board shall evaluate the technical and scientific validity of activities undertaken by the Secretary after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, including— 42 USC 10263.

"(1) site characterization activities; and

"(2) activities relating to the packaging or transportation of high-level radioactive waste or spent nuclear fuel.

"INVESTIGATORY POWERS

"SEC. 504. (a) HEARINGS.—Upon request of the Chairman or a majority of the members of the Board, the Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board. 42 USC 10264.

"(b) PRODUCTION OF DOCUMENTS.—(1) Upon the request of the Chairman or a majority of the members of the Board, and subject to existing law, the Secretary (or any contractor of the Secretary) shall provide the Board with such records, files, papers, data, or information as may be necessary to respond to any inquiry of the Board under this title.

"(2) Subject to existing law, information obtainable under paragraph (1) shall not be limited to final work products of the Secretary, but shall include drafts of such products and documentation of work in progress.

"COMPENSATION OF MEMBERS

"SEC. 505. (a) IN GENERAL.—Each member of the Board shall be paid at the rate of pay payable for level III of the Executive Schedule for each day (including travel time) such member is engaged in the work of the Board. 42 USC 10265.

"(b) TRAVEL EXPENSES.—Each member of the Board may receive travel expenses, including per diem in lieu of subsistence, in the same manner as is permitted under sections 5702 and 5703 of title 5, United States Code.

"STAFF

"SEC. 506. (a) CLERICAL STAFF.—(1) Subject to paragraph (2), the Chairman may appoint and fix the compensation of such clerical 42 USC 10266.

staff as may be necessary to discharge the responsibilities of the Board.

"(2) Clerical staff shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(b) PROFESSIONAL STAFF.—(1) Subject to paragraphs (2) and (3), the Chairman may appoint and fix the compensation of such professional staff as may be necessary to discharge the responsibilities of the Board.

"(2) Not more than 10 professional staff members may be appointed under this subsection.

"(3) Professional staff members may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"SUPPORT SERVICES

42 USC 10267.

"SEC. 507. (a) GENERAL SERVICES.—To the extent permitted by law and requested by the Chairman, the Administrator of General Services shall provide the Board with necessary administrative services, facilities, and support on a reimbursable basis.

"(b) ACCOUNTING, RESEARCH, AND TECHNOLOGY ASSESSMENT SERVICES.—The Comptroller General, the Librarian of Congress, and the Director of the Office of Technology Assessment shall, to the extent permitted by law and subject to the availability of funds, provide the Board with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the Board.

"(c) ADDITIONAL SUPPORT.—Upon the request of the Chairman, the Board may secure directly from the head of any department or agency of the United States information necessary to enable it to carry out this title.

"(d) MAILS.—The Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

"(e) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Board, the Chairman may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

"REPORT

42 USC 10268.

"SEC. 508. The Board shall report not less than 2 times per year to Congress and the Secretary its findings, conclusions, and recommendations. The first such report shall be submitted not later than 12 months after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 509. Notwithstanding subsection (d) of section 302, and subject to subsection (e) of such section, there are authorized to be appropriated for expenditures from amounts in the Waste Fund established in subsection (c) of such section such sums as may be necessary to carry out the provisions of this title. 42 USC 10269.

"TERMINATION OF THE BOARD

"SEC. 510. The Board shall cease to exist not later than 1 year after the date on which the Secretary begins disposal of high-level radioactive waste or spent nuclear fuel in a repository.". 42 USC 10270.

PART F—MISCELLANEOUS

SEC. 5061. TRANSPORTATION.

Title I of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10121-10171) is further amended by adding at the end the following new subtitle:

"SUBTITLE H—TRANSPORTATION

"TRANSPORTATION

"SEC. 180. (a) No spent nuclear fuel or high-level radioactive waste may be transported by or for the Secretary under subtitle A or under subtitle C except in packages that have been certified for such purpose by the Commission. 42 USC 10175.

"(b) The Secretary shall abide by regulations of the Commission regarding advance notification of State and local governments prior to transportation of spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C.

"(c) The Secretary shall provide technical assistance and funds to States for training for public safety officials of appropriate units of local government and Indian tribes through whose jurisdiction the Secretary plans to transport spent nuclear fuel or high-level radioactive waste under subtitle A or under subtitle C. Training shall cover procedures required for safe routine transportation of these materials, as well as procedures for dealing with emergency response situations. The Waste Fund shall be the source of funds for work carried out under this subsection.".

SEC. 5062. TRANSPORTATION OF PLUTONIUM BY AIRCRAFT THROUGH UNITED STATES AIR SPACE.

42 USC 5841 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, no form of plutonium may be transported by aircraft through the air space of the United States from a foreign nation to a foreign nation unless the Nuclear Regulatory Commission has certified to Congress that the container in which such plutonium is transported is safe, as determined in accordance with subsection (b), the second undesignated paragraph under section 201 of Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note), and all other applicable laws.

(b) RESPONSIBILITIES OF THE NUCLEAR REGULATORY COMMISSION.—

(1) DETERMINATION OF SAFETY.—The Nuclear Regulatory Commission shall determine whether the container referred to in subsection (a) is safe for use in the transportation of plutonium by aircraft and transmit to Congress a certification for the

purposes of such subsection in the case of each container determined to be safe.

(2) TESTING.—In order to make a determination with respect to a container under paragraph (1), the Nuclear Regulatory Commission shall—

(A) require an actual drop test from maximum cruising altitude of a full-scale sample of such container loaded with test materials; and

(B) require an actual crash test of a cargo aircraft fully [77] loaded with full-scale samples of such container loaded with test material unless the Commission determines, after consultation with an independent scientific review panel, that the stresses on the container produced by other tests used in developing the container exceed the stresses which would occur during a worst case plutonium air shipment accident.

(3) LIMITATION.—The Nuclear Regulatory Commission may not certify under this section that a container is safe for use in the transportation of plutonium by aircraft if the container ruptured or released its contents during testing conducted in accordance with paragraph (2).

(4) EVALUATION.—The Nuclear Regulatory Commission shall evaluate the container certification required by title II of the Energy Reorganization Act of 1974 (42 U.S.C. 5841 et seq.) and subsection (a) in accordance with the National Environmental Policy Act of 1969 (83 Stat. 852; 42 U.S.C. 4321 et seq.) and all other applicable law.

(c) CONTENT OF CERTIFICATION.—A certification referred to in subsection (a) with respect to a container shall include—

(1) the determination of the Nuclear Regulatory Commission as to the safety of such container;

(2) a statement that the requirements of subsection (b)(2) were satisfied in the testing of such container; and

(3) a statement that the container did not rupture or release its contents into the environment during testing.

(d) DESIGN OF TESTING PROCEDURES.—The tests required by subsection (b) shall be designed by the Nuclear Regulatory Commission to replicate actual worst case transportation conditions to the maximum extent practicable. In designing such tests, the Commission shall provide for public notice of the proposed test procedures, provide a reasonable opportunity for public comment on such procedures, and consider such comments, if any.

(e) TESTING RESULTS: REPORTS AND PUBLIC DISCLOSURE.—The Nuclear Regulatory Commission shall transmit to Congress a report on the results of each test conducted under this section and shall make such results available to the public.

President of U.S.

(f) ALTERNATIVE ROUTES AND MEANS OF TRANSPORTATION.—With respect to any shipments of plutonium from a foreign nation to a foreign nation which are subject to United States consent rights contained in an Agreement for Peaceful Nuclear Cooperation, the President is authorized to make every effort to pursue, and conclude arrangements for alternative routes and means of transportation, including sea shipment. All such arrangements shall be subject to stringent physical security conditions, and other conditions designed to protect the public health and safety, and provisions of this section, and all other applicable laws.

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[77] Copy read "full".

(g) Inapplicability to Medical Devices.—Subsections (a) through (e) shall not apply with respect to plutonium in any form contained in a medical device designed for individual human application.

(h) Inapplicability to Military Uses.—Subsections (a) through (e) shall not apply to plutonium in the form of nuclear weapons nor to other shipments of plutonium determined by the Department of Energy to be directly connected with the United States national security or defense programs.

(i) Inapplicability to Previously Certified Containers.—This section shall not apply to any containers for the shipment of plutonium previously certified as safe by the Nuclear Regulatory Commission under Public Law 94-79 (89 Stat. 413; 42 U.S.C. 5841 note).

(j) Payment of Costs.—All costs incurred by the Nuclear Regulatory Commission associated with the testing program required by this section, and administrative costs related thereto, shall be reimbursed to the Nuclear Regulatory Commission by any foreign country receiving plutonium shipped through United States airspace in containers specified by the Commission.

SEC. 5063. SUBSEABED DISPOSAL.

Title II of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10191-10203) is amended by adding at the end the following new section:

"SUBSEABED DISPOSAL

Reports.
42 USC 10204.

"Sec. 224. (a) Study.—Within 270 days after the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall report to Congress on subseabed disposal of spent nuclear fuel and high-level radioactive waste. The report under this subsection shall include—

"(1) an assessment of the current state of knowledge of subseabed disposal as an alternative technology for disposal of spent nuclear fuel and high-level radioactive waste;

"(2) an estimate of the costs of subseabed disposal;

"(3) an analysis of institutional factors associated with subseabed disposal, including international aspects of a decision of the United States to proceed with subseabed disposal as an option for nuclear waste management;

"(4) a full discussion of the environmental and public health and safety aspects of subseabed disposal;

"(5) recommendations on alternative ways to structure an effort in research, development, and demonstration with respect to subseabed disposal; and

"(6) the recommendations of the Secretary with respect to research, development and demonstration in subseabed disposal of spent nuclear fuel and high-level radioactive waste.

Establishment.

"(b) Office of Subseabed Disposal Research.—(1) There is hereby established an Office of Subseabed Disposal Research within the Office of Energy Research of the Department of Energy. The Office shall be headed by the Director, who shall be a member of the Senior Executive Service appointed by the Director of the Office of Energy Research, and compensated at a rate determined by applicable law.

"(2) The Director of the Office of Subseabed Disposal Research shall be responsible for carrying out research, development, and demonstration activities on all aspects of subseabed disposal of high-level radioactive waste and spent nuclear fuel, subject to the general supervision of the Secretary. The Director of the Office shall be directly responsible to the Director of the Office of Energy Research, and the first such Director shall be appointed within 30 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987.

Grants.
Contracts.

"(3) In carrying out his responsibilities under this Act, the Secretary may make grants to, or enter into contracts with, the Subseabed Consortium described in subsection (d) of this section, and other persons.

"(4)(A) Within 60 days of the date of enactment of the Nuclear Waste Policy Amendments Act of 1987, the Secretary shall establish a university-based Subseabed Consortium involving leading oceanographic universities and institutions, national laboratories, and other organizations to investigate the technical and institutional feasibility of subseabed disposal.

"(B) The Subseabed Consortium shall develop a research plan and budget to achieve the following objectives by 1995:

"(i) demonstrate the capacity to identify and characterize potential subseabed disposal sites;

"(ii) develop conceptual designs for a subseabed disposal system, including estimated costs and institutional requirements; and

"(iii) identify and assess the potential impacts of subseabed disposal on the human and marine environment.

Reports.

"(C) In 1990, and again in 1995, the Subseabed Consortium shall report to Congress on the progress being made in achieving the objectives of paragraph (2).

Reports.

"(5) The Director of the Office of Subseabed Disposal Research shall annually prepare and submit a report to the Congress on the activities and expenditures of the Office.".

SEC. 5604. DRY CASK STORAGE.

(a) Study.—During the period between the date of the enactment of the Nuclear Waste Policy Amendments Act of 1987 and October 1, 1988, the Secretary of Energy (hereinafter in this section referred to as the "Secretary") shall conduct a study and evaluation of the use of dry cask storage technology at the sites of civilian nuclear power reactors for the temporary storage of spent nuclear fuel until such time as a permanent geologic repository has been constructed and licensed by the Nuclear Regulatory Commission (hereinafter in this section referred to as the "Commission") and is capable of receiving spent nuclear fuel. The Secretary shall report to Congress on the study under this paragraph by October 1, 1988.

Reports.

(b) Contents of Study.—In conducting the study under paragraph (1) the Secretary shall—

(1) consider the costs of dry cask storage technology, the extent to which dry cask storage on the site of civilian nuclear power reactors will affect human health and the environment, the extent to which the storage on the sites of civilian nuclear power reactors affects the costs and risk of transporting spent nuclear fuel to a central facility such as a monitored retrievable storage facility, and any other factors the Secretary considers appropriate;

(2) consider the extent to which amounts in the Nuclear Waste Fund established in section 302(c) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222(c)) can be used, and should be used, to provide funds to construct, operate, maintain, and safeguard spent nuclear fuel in dry cask storage at the sites for civilian nuclear power reactors;

(3) consult with the Commission and include the views of the Commission in the report under paragraph (1); and

(4) solicit the views of State and local governments and the public.

SEC. 5065. AMENDMENTS TO THE TABLE OF CONTENTS.

The table of contents of the Nuclear Waste Policy Act of 1982 is amended by—

(1) adding at the end of subtitle C the following new sections:

"Sec. 142. Authorization of monitored retrievable storage.
"Sec. 143. Monitored Retrievable Storage Commission.
"Sec. 144. Survey.
"Sec. 145. Site selection.
"Sec. 146. Notice of disapproval.
"Sec. 147. Benefits agreement.
"Sec. 148. Construction authorization.
"Sec. 149. Financial assistance.";

(2) adding at the end of title I the following new subtitles:

"SUBTITLE E—REDIRECTION OF THE NUCLEAR WASTE PROGRAM

"Sec. 160. Selection of Yucca Mountain site.
"Sec. 161. Siting a second repository.

"SUBTITLE F—BENEFITS

"Sec. 170. Benefits agreements.
"Sec. 171. Content of agreements.
"Sec. 172. Review panel.
"Sec. 173. Termination.

"SUBTITLE G—OTHER BENEFITS

"Sec. 174. Consideration in siting facilities.
"Sec. 175. Report.

"SUBTITLE H—TRANSPORTATION

"Sec. 180. Transportation.";

(3) adding at the end of title II the following new section:

"Sec. 224. Subseabed disposal."; and

(4) adding at the end the following new titles:

"TITLE IV—NUCLEAR WASTE NEGOTIATOR

"Sec. 401. Definition.
"Sec. 402. The Office of Nuclear Waste Negotiator.
"Sec. 403. Duties of the Negotiator.
"Sec. 404. Environmental assessment of sites.
"Sec. 405. Site characterization; licensing.
"Sec. 406. Monitored retrievable storage
"Sec. 407. Environmental impact statement.
"Sec. 408. Administrative powers of the Negotiator
"Sec. 409. Cooperation of other departments and agencies.
"Sec. 410. Termination of the office.".

Public Law 100-204
100th Congress

An Act

To authorize appropriations for fiscal years 1988 and 1989 for the Department of State, the United States Information Agency, the Voice of America, the Board for International Broadcasting, and for other purposes.

Dec. 22, 1987
[H.R. 1777]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.
22 USC 2651 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Foreign Relations Authorization Act, Fiscal Years 1988 and 1989".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—THE DEPARTMENT OF STATE

PART A—AUTHORIZATION OF APPROPRIATIONS; ALLOCATIONS OF FUNDS; RESTRICTIONS

Sec. 101. Administration of Foreign Affairs.
Sec. 102. Contributions to International Organizations and Conferences; International Peacekeeping Activities.
Sec. 103. International Commissions.
Sec. 104. Migration and refugee assistance.
Sec. 105. Other programs.
Sec. 106. Reduction in earmarks if appropriations are less than authorizations.
Sec. 107. Transfer of funds.
Sec. 108. Compliance with Presidential-Congressional summit agreement on deficit reduction.
Sec. 109. Prohibition on use of funds for political purposes.
Sec. 110. Latin American and Caribbean data bases.

PART B—DEPARTMENT OF STATE AUTHORITIES AND ACTIVITIES; FOREIGN MISSIONS

Sec. 121. Reprogramming of funds appropriated for the Department of State.
Sec. 122. Consular and diplomatic posts abroad.
Sec. 123. Closing of diplomatic and consular posts in Antigua and Barbuda.
Sec. 124. Report on expenditures made from appropriation for emergencies in the diplomatic and consular service.
Sec. 125. Requirements applicable to gifts used for representational purposes.
Sec. 126. Protection of historic and artistic furnishings of reception areas of the Department of State building.
Sec. 127. Inclusion of coercive population control information in annual human rights report.
Sec. 128. Limitation on the use of a foreign mission in a manner incompatible with its status as a foreign mission.
Sec. 129. Allocation of shared costs at missions abroad.
Sec. 130. Prohibition on the use of funds for facilities in Israel, Jerusalem, or the West Bank.
Sec. 131. Purchasing and leasing of residences.
Sec. 132. Prohibition on acquisition of house for Secretary of State.
Sec. 133. United States Department of State freedom of expression.
Sec. 134. Repeal of Office of Policy and Program Review.
Sec. 135. Studies and planning for a consolidated training facility for the Foreign Service Institute.
Sec. 136. Restriction on supervision of Government employees by chiefs of mission.
Sec. 137. Study and report concerning the status of individuals with diplomatic immunity in the United States.
Sec. 138. Federal jurisdiction of direct actions against insurers of diplomatic agents.
Sec. 139. Enforcement of Case-Zablocki Act requirements.

Sec. 140. Annual country reports on terrorism.
Sec. 141. Restriction on use of funds for public diplomacy efforts.
Sec. 142. Authority to invest and recover expenses from international claims settlement funds.

PART C—DIPLOMATIC RECIPROCITY AND SECURITY

Sec. 151. United States-Soviet Embassy Agreement; prohibition on use of Mt. Alto Site.
Sec. 152. Recovery of damages incurred as a result of Soviet intelligence activities directed at the new United States Embassy in Moscow.
Sec. 153. United States-Soviet reciprocity in matters relating to embassies.
Sec. 154. Report on personnel of Soviet state trading enterprises.
Sec. 155. Personnel security program for embassies in high intelligence threat countries.
Sec. 156. Accountability Review Boards.
Sec. 157. Prohibition on certain employment at United States diplomatic and consular missions in Communist Countries.
Sec. 158. Termination of retirement benefits for foreign national employees engaging in hostile intelligence activities.
Sec. 159. Report on employment of foreign nationals at foreign service posts abroad.
Sec. 160. Construction security certification.
Sec. 161. Protection from future hostile intelligence activities in the United States.
Sec. 162. Application of travel restrictions to personnel of certain countries and organizations.
Sec. 163. Counterintelligence polygraph screening of Diplomatic Security Service personnel.
Sec. 164. United States Embassy in Hungary.

PART D—PERSONNEL MATTERS

Sec. 171. Commission to study Foreign Service personnel system.
Sec. 172. Protection of Civil Service employees.
Sec. 173. Compensation for certain State Department officials.
Sec. 174. Audit of merit personnel system of Foreign Service.
Sec. 175. Performance pay.
Sec. 176. Extension of limited appointments.
Sec. 177. Chief of missions salary.
Sec. 178. Pay level of ambassadors at large.
Sec. 179. Foreign Service career candidates tax treatment.
Sec. 180. Prohibition on member of a Foreign Service union negotiating on behalf of the Department of State.
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Sec. 1301. Effective date.

TITLE XI—GLOBAL CLIMATE PROTECTION

Global Climate Protection Act of 1987.
Environmental protection.
Pollution.
15 USC 2901 note.

SEC. 1101. SHORT TITLE.

This title may be cited as the "Global Climate Protection Act of 1987".

15 USC 2901 note.

SEC. 1102. FINDINGS.

The Congress finds as follows:

(1) There exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long-term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect.

(2) By early in the next century, an increase in Earth temperature could—

(A) so alter global weather patterns as to have an effect on existing agricultural production and on the habitability of large portions of the Earth; and

(B) cause thermal expansion of the oceans and partial melting of the polar ice caps and glaciers, resulting in rising sea levels.

(3) Important research into the problem of climate change is now being conducted by various United States Government and international agencies, and the continuation and intensification of those efforts will be crucial to the development of an effective United States response.

(4) While the consequences of the greenhouse effect may not be fully manifest until the next century, ongoing pollution and deforestation may be contributing now to an irreversible process. Necessary actions must be identified and implemented in time to protect the climate.

International organizations.

(5) The global nature of this problem will require vigorous efforts to achieve international cooperation aimed at minimizing and responding to adverse climate change; such international cooperation will be greatly enhanced by United States leadership. A key step in international cooperation will be the meeting of the Governing Council of the United Nations Environment Program, scheduled for June 1989, which will seek to determine a direction for worldwide efforts to control global climate change.

(6) Effective United States leadership in the international arena will depend upon a coordinated national policy.

15 USC 2901 note. International agreements. Research and development. Science and technology.

SEC. 1103. MANDATE FOR ACTION ON THE GLOBAL CLIMATE.

(a) GOALS OF UNITED STATES POLICY.—United States policy should seek to—

(1) increase worldwide understanding of the greenhouse effect and its environmental and health consequences;

(2) foster cooperation among nations to develop more extensive and coordinated scientific research efforts with respect to the greenhouse effect;

(3) identify technologies and activities to limit mankind's adverse effect on the global climate by—

(A) slowing the rate of increase of concentrations of greenhouse gases in the atmosphere in the near term; and

(B) stabilizing or reducing atmospheric concentrations of greenhouse gases over the long term; and

(4) work toward multilateral agreements.

President of U.S.

(b) FORMULATION OF UNITED STATES POLICY.—The President, through the Environmental Protection Agency, shall be responsible for developing and proposing to Congress a coordinated national policy on global climate change. Such policy formulation shall consider research findings of the Committee on Earth Sciences of the Federal Coordinating Council on Science and Engineering Technology, the National Academy of Sciences, the National Oceanic and Atmospheric Administration, the National Science Foundation, the National Aeronautic and Space Administration, the Department of Energy, the Environmental Protection Agency, and other organizations engaged in the conduct of scientific research.

(c) COORDINATION OF UNITED STATES POLICY IN THE INTERNATIONAL ARENA.—The Secretary of State shall be responsible to coordinate those aspects of United States policy requiring action through the channels of multilateral diplomacy, including the United Nations Environment Program and other international organizations. In the formulation of these elements of United States policy, the Secretary of State shall, under the direction of the President, work jointly with the Administrator of the Environmental Protection Agency and other United States agencies concerned with environmental protection, consistent with applicable Federal law.

President of U.S.

SEC. 1104. REPORT TO CONGRESS.

15 USC 2901 note.

Not later than 24 months after the date of enactment of this Act, the Secretary of State and the Administrator of the Environmental Protection Agency shall jointly submit to all committees of jurisdiction in the Congress a report which shall include—

(1) a summary analysis of current international scientific understanding of the greenhouse effect, including its environmental and health consequences;

(2) an assessment of United States efforts to gain international cooperation in limiting global climate change; and

(3) a description of the strategy by which the United States intends to seek further international cooperation to limit global climate change.

SEC. 1105. INTERNATIONAL YEAR OF GLOBAL CLIMATE PROTECTION.

15 USC 2901 note.

In order to focus international attention and concern on the problem of global warming, and to foster further work on multilateral treaties aimed at protecting the global climate, the Secretary of State shall undertake all necessary steps to promote, within the United Nations system, the early designation of an International Year of Global Climate Protection.

SEC. 1106. CLIMATE PROTECTION AND UNITED STATES-SOVIET RELATIONS.

Union of Soviet Socialist Republics.
15 USC 2901 note.

In recognition of the respective leadership roles of the United States and the Soviet Union in the international arena, and of their joint role as the world's two major producers of atmospheric pollutants, the Congress urges that the President accord the problem of climate protection a high priority on the agenda of United States-Soviet relations.

AIRPORT AND AIRWAY SAFETY AND CAPACITY EXPANSION ACT OF 1987

Public Law 100-223
100th Congress

An Act

Dec. 30, 1987
[H.R. 2310]

To amend the Airport and Airway Improvement Act of 1982 for the purpose of extending the authorization of appropriations for airport and airway improvements, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Airport and Airway Safety and Capacity Expansion Act of 1987.
Transportation.
49 USC app. 2201 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Airport and Airway Safety and Capacity Expansion Act of 1987".

(b) Table of Contents.—

Sec. 1. Short title and table of contents.
Sec. 2. Secretary and Administrator defined.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

Sec. 101. Amendment of Airport and Airway Improvement Act of 1982.
Sec. 102. Declaration of policy.
Sec. 103. Definitions.
Sec. 104. National airport and airway system plans.
Sec. 105. Authorization of appropriations.
Sec. 106. Apportionment of funds.
Sec. 107. Limitations on uses of funds.
Sec. 108. State sponsorship.
Sec. 109. Project sponsorship.
Sec. 110. Grant agreements.
Sec. 111. Project costs.
Sec. 112. Limitation on powers.
Sec. 113. Part-time operation of flight service stations.
Sec. 114. Explosive detection K-9 teams.
Sec. 115. Denial of funds for projects using products or services of foreign countries that deny fair market opportunities.
Sec. 116. State block grant pilot program.

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

Sec. 201. Amendment of Federal Aviation Act of 1958.
Sec. 202. Essential air service.
Sec. 203. Aircraft collision avoidance systems.
Sec. 204. Civil penalties.
Sec. 205. Indemnification of Federal Aviation Administration employees.
Sec. 206. Hazards to safe and efficient air commerce and the preservation of navigable airspace and airport traffic capacity.
Sec. 207. Public aircraft defined.

TITLE III—MISCELLANEOUS PROVISIONS

Sec. 301. Noise abatement.
Sec. 302. Air traffic controller workforce.
Sec. 303. Safety rulemaking proceedings.
Sec. 304. Inflation adjustment on collection of certain aviation fees.
Sec. 305. Amendments to the National Driver Register Act.
Sec. 306. Low activity level I air traffic control tower contract program.
Sec. 307. Eligibility of Dermott, Arkansas, municipal airport.
Sec. 308. Standards for navigational aids.
Sec. 309. Long-term airport capacity needs.
Sec. 310. Radio navigation systems.
Sec. 311. Reporting of accidents to NTSB.
Sec. 312. Atlantic City Airport.

Sec. 313. Release of certain conditions.
Sec. 314. Flight service station in Juneau, Alaska.
Sec. 315. Grand Canyon Airport.

TITLE IV—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

Sec. 401. Short title.
Sec. 402. 3-year extension of aviation-related taxes.
Sec. 403. Extension of Airport and Airway Trust Fund spending authority.
Sec. 404. Exemption for certain emergency medical transportation by helicopter.
Sec. 405. Reduction in aviation-related taxes where appropriations are significantly below authorizations.

SEC. 2. SECRETARY AND ADMINISTRATOR DEFINED.

49 USC app. 2202 note.

As used in this Act—

(1) the term "Secretary" means the Secretary of Transportation; and

(2) the term "Administrator" means the Administrator of the Federal Aviation Administration.

TITLE I—AIRPORT AND AIRWAY IMPROVEMENT ACT AMENDMENTS

SEC. 101. AMENDMENT OF AIRPORT AND AIRWAY IMPROVEMENT ACT OF 1982.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2201-2225).

SEC. 102. DECLARATION OF POLICY.

(a) Comprehensive Air Space Plan.—Section 502(a)(4) is amended— 49 USC app. 2201.

(1) by inserting ", a vertical visual guidance system," after "precision approach system"; and

(2) by inserting "distance-to-go signs for each primary and secondary runway, a surface movement radar system at each category III airport, a taxiway lighting and sign system," after "vertical guidance on all runways,".

(b) Cargo Hub Airports.—Section 502(a) is amended—

(1) by redesignating paragraphs (7), (8), and (9) as paragraphs (8), (9), and (10), respectively; and

(2) by inserting after paragraph (6) the following new paragraph:

"(7) cargo hub airports play a critical role in the movement of commerce through the airport and airway system and appropriate provisions should be made to facilitate the development and enhancement of such airports;".

(c) Increasing Airport Capacity; Nonaviation Use of Airspace; Limitation on Artificial Restrictions on Airport Capacity.—Section 502(a) is amended—

(1) by striking out "and" at the end of paragraph (9), as redesignated by subsection (b);

(2) by striking out the period at the end of paragraph (10), as so redesignated, and by inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(11) airport construction and improvement projects which increase the capacity of facilities to accommodate passenger and cargo traffic, thereby increasing safety and efficiency and reducing delays, should be undertaken to the maximum feasible extent;

"(12) it is in the national interest to ensure that nonaviation usage of navigable airspace be accommodated but not allowed to decrease the safety and capacity of the airspace and airport system; and

"(13) artificial restrictions on airport capacity are not in the public interest and should not be imposed to alleviate air traffic delays unless other reasonably available and less burdensome alternatives have first been attempted.".

49 USC app. 1348 note.

(d) SENSE OF CONGRESS.—It is the sense of Congress that any regulation under which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft at certain airports should be phased out and eliminated at the earliest practicable date the Administrator finds that such phaseout or elimination is consistent with aviation safety.

SEC. 103. DEFINITIONS.

49 USC app. 2202.

(a) INCLUSION OF HELIPORTS AS AIRPORTS.—Section 503(a)(1) is amended—

(1) by inserting "(A)" before "means"; and

(2) by inserting "; and (B) includes any heliport" before the period at the end thereof.

(b) ACQUISITION OF FIRE FIGHTING EQUIPMENT AS AIRPORT DEVELOPMENT.—Section 503(a)(2)(B) is amended—

(1) by striking out "or" at the end of clause (iv);

(2) by striking out "and" at the end of clause (v) and inserting in lieu thereof "or"; and

(3) by adding at the end thereof the following new clause:

"(vi) fire fighting and rescue equipment at any airport which serves scheduled passenger operations of air carrier aircraft designed for more than 20 passenger seats; and".

(c) LANDED WEIGHT DEFINED.—Section 503(a) is amended—

(1) by redesignating paragraphs (9) through (24), and any references thereto, as paragraphs (10) through (25); and

(2) by inserting after paragraph (8) the following new paragraph:

"(9) 'Landed weight' means the weight of aircraft providing scheduled and nonscheduled service of only property (including mail) in intrastate, interstate, and foreign air transportation, as shall be determined by the Secretary pursuant to such regulations as the Secretary may prescribe.".

(d) INCLUSION OF CERTAIN INTERNATIONAL PASSENGERS AS PASSENGERS ENPLANED.—Paragraph (10) of section 503(a), as redesignated by subsection (c), is amended by inserting before the period at the end thereof the following: "and includes passengers on board international flights which transit an airport located in the 48 contiguous States for nontraffic purposes".

(e) DEFINITION OF PRIMARY AIRPORT.—Paragraph (12) of section 503(a), as redesignated by subsection (c), is amended by striking out ".01 percent" and all that follows through the period at the end thereof and inserting in lieu thereof the following: "more than 10,000 passengers enplaned annually.".

(f) CONFORMING AMENDMENT.—Section 101(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2101(1)) is amended by striking out section "503(17)" and inserting in lieu thereof "503(18)".

SEC. 104. NATIONAL AIRPORT AND AIRWAY SYSTEM PLANS.

(a) REVIEW OF PLAN.—

(1) IN GENERAL.—Section 504(a) is amended— 49 USC app. 2203.

(A) by inserting "(1) PUBLICATION, CONTENTS, AND REVIEW OF PLAN.—" before "Not later than two"; and

(B) by adding at the end thereof the following new paragraph:

"(2) SPECIAL REVIEW.—As soon as feasible following the date of the enactment of this paragraph, the Secretary shall, in reviewing and revising the plan, take into account tall structures which reduce safety or airport capacity and make every reasonable effort to address the legitimate needs of air cargo operations, STOL/VSTOL aircraft operations, and rotary wing aircraft operations.".

(2) CONFORMING AMENDMENT.—Such section is further amended by indenting paragraph (1), as designated by paragraph (1)(A) of this subsection, and aligning such paragraph (1) with paragraph (2), as added by paragraph (1)(B) of this subsection.

(b) STUDY OF SPECIAL USE AIRSPACE.—

(1) IN GENERAL.—Section 504(d) is amended by striking out paragraphs (2) and (3) and inserting in lieu thereof the following new paragraph:

"(2) SPECIAL USE AIRSPACE.—

"(A) REVIEW.—The Secretary and the Secretary of Defense, in consultation with aviation users, shall jointly conduct a national review of the need and utilization of special use airspace with a view to determining its impact on civil aviation operations and on the quality of the environment.

"(B) REPORT.—Not later than 18 months after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary and the Secretary of Defense shall report to Congress the results of the review conducted under subparagraph (A), together with their recommendations.".

(2) CONFORMING AMENDMENTS.—Section 504(d) is further amended—

(A) in paragraph (1) by inserting "CIVIL USE OF DOMESTIC MILITARY AIRPORTS.—" before "The Department"; and

(B) by indenting paragraph (1) and aligning such paragraph with paragraph (2), as inserted by paragraph (1) of this subsection.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

(a) AIRWAY FACILITIES AND EQUIPMENT.—Section 506(a) is amended— 49 USC app. 2205.

(1) by redesignating paragraph (2) (and any reference thereto) as paragraph (3); and

(2) by striking out "For the purposes of" and all that follows through "remain available until expended." and inserting in lieu thereof the following:

"(1) GENERAL AUTHORIZATION.—For the purposes of acquiring, establishing, and improving air navigation facilities under section 307(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1348(b)), there are authorized to be appropriated from the Trust Fund for fiscal years beginning after September 30, 1981, aggregate amounts not to exceed $6,327,000,000 for fiscal years ending before October 1, 1987, $7,704,000,000 for fiscal years ending before October 1, 1988, $9,434,000,000 for fiscal years ending before October 1, 1989, and $11,625,200,000 for fiscal years ending before October 1, 1990. Amounts appropriated under this subsection shall remain available until expended.

"(2) PURCHASE AND INSTALLATION OF INSTRUMENT LANDING SYSTEMS.—

"(A) MINIMUM OBLIGATION LEVEL.—Of amounts made available under paragraph (1) after September 30, 1987, the Secretary shall obligate not less than $27,000,000 in fiscal year 1988, $30,000,000 in fiscal year 1989, and $35,000,000 in fiscal year 1990 for the purposes of purchasing and installing instrument landing systems at airports under section 307(b) of the Federal Aviation Act of 1958.

"(B) PRIMARY AND RELIEVER AIRPORTS.—75 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at primary airports and reliever airports.

"(C) OTHER AIRPORTS.—25 percent of amounts obligated pursuant to subparagraph (A) in a fiscal year shall be made available for the purchase and installation of instrument landing systems at airports other than primary airports and reliever airports.".

(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—

49 USC app. 2205.

(1) IN GENERAL.—Section 506(b) is amended to read as follows:

"(b) RESEARCH, ENGINEERING AND DEVELOPMENT, AND DEMONSTRATIONS.—

"(1) DEMONSTRATION PROJECTS.—The Secretary is authorized to carry out under section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) such demonstration projects as the Secretary determines necessary in connection with research and development activities under such section.

"(2) GENERAL AUTHORIZATION.—For research, engineering and development, and demonstration projects and activities under section 312 of the Federal Aviation Act of 1958 and paragraph (1) of this subsection, there is authorized to be appropriated from the Trust Fund—

"(A) for fiscal year 1988—

"(i) $127,192,000 solely for air traffic control projects and activities;

"(ii) $7,743,000 solely for air traffic control advanced computer projects and activities;

"(iii) $9,818,000 solely for navigation projects and activities;

"(iv) $21,957,000 solely for aviation weather projects and activities;

"(v) $6,307,000 solely for aviation medicine projects and activities of which not less than $250,000 shall be made available for research and development relating to equipment designed to provide improved access by handicapped persons to commercial aircraft;

"(vi) $24,988,000 solely for aircraft safety projects and activities; and

"(vii) $3,000,000 solely for environmental projects and activities;

"(B) for fiscal year 1989—

"(i) $135,866,000 solely for air traffic control projects and activities;

"(ii) $15,716,000 solely for air traffic control advanced computer projects and activities;

"(iii) $11,395,000 solely for navigation projects and activities;

"(iv) $21,797,000 solely for aviation weather projects and activities;

"(v) $6,613,000 solely for aviation medicine projects and activities;

"(vi) $21,013,000 solely for aircraft safety projects and activities; and

"(vii) $2,600,000 solely for environmental projects and activities; and

"(C) for fiscal year 1990, $222,000,000.

"(3) AUTHORITY TO TRANSFER FUNDS.—

"(A) UNLIMITED.—Funds may be transferred among the projects and activities listed in paragraph (2), except that the net funds transferred to or from any category of such projects and activities listed in paragraph (2) in any fiscal year may not exceed 10 percent of the amount authorized for such category by paragraph (2) for such fiscal year.

"(B) AFTER NOTICE.—In addition, the Secretary may propose transfers to or from any category of projects and activities listed in paragraph (2) exceeding 10 percent of the amount authorized for such category. An explanation of the proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology and the Committee on Appropriations of the House of Representatives and the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate. The proposed transfer may be made only when—

"(i) 30 calendar days have passed after transmission of such explanation; or

"(ii) each such Committee has transmitted to the Secretary written notice that such Committee has no objection to the proposed transfer.

"(4) FUNDING FOR ENHANCING AIRPORT CAPACITY.—

"(A) GENERAL RULE.—Notwithstanding any other provision of this subsection, of funds made available under paragraph (2) in each of fiscal years 1988, 1989, and 1990, not less than $25,000,000 per fiscal year is authorized to be appropriated for research and development on preserving and enhancing airport capacity (including research and development on improvements to airport design standards, airport maintenance, airport safety, airport operations, and airport environmental concerns) under section 312 of the Federal Aviation Act of 1958.

"(B) REPORT.—Not later than 60 days after the last day of each of fiscal years 1988, 1989, and 1990, the Administrator of the Federal Aviation Administration shall transmit to the Committee on Science, Space, and Technology and the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on expenditures made by the Administrator for research and development under subparagraph (A) in such fiscal year.

"(5) PERIOD OF AVAILABILITY.—Amounts appropriated under this subsection shall remain available until expended.".

49 USC app. 2205 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect October 1, 1987.

(c) OTHER EXPENSES.—

49 USC app. 2205.

(1) GENERAL LIMITATIONS.—Section 506(c) is amended by adding at the end thereof the following new paragraph:

"(3) FISCAL YEARS 1988-1990.—

"(A) MAXIMUM AMOUNT APPROPRIATED.—Subject to subparagraph (B) of this paragraph, the amount appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) of this subsection for each of fiscal years 1988, 1989, and 1990 may not exceed 50 percent of the amount of funds made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(B) REDUCTION IN MAXIMUM AMOUNT.—The maximum amount which may be appropriated from the Trust Fund for the purposes of clauses (A) and (B) of paragraph (1) for any fiscal year, as determined under subparagraph (A) of this paragraph, shall be reduced by an amount equal to 2 times the excess, if any, of—

"(i) $3,278,000,000 in the case of fiscal year 1988, $3,445,000,000 in the case of fiscal year 1989, $3,863,000,000 in the case of fiscal year 1990, $3,770,000,000 in the case of fiscal year 1991, and $3,778,000,000 in the case of fiscal year 1992, over

"(ii) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year.

"(C) INCREASE IN MAXIMUM AMOUNT.—Subject to subparagraph (D), the amount authorized to be appropriated from the Trust Fund under this paragraph for any fiscal year shall be increased by an amount equal to 2 times the excess, if any, of—

"(i) the amount made available under section 505 and subsections (a) and (b) of this section for such fiscal year, over

"(ii) the portion of the amount authorized under such section and subsections for such fiscal year which was not authorized for any previous fiscal year.

"(D) LIMITATION ON INCREASES.—The aggregate amount of increases in the amount authorized to be appropriated from the Trust Fund under this paragraph may not exceed the aggregate amount of reductions made under subparagraph (B) of this paragraph.".

(2) LIMITATION ON FUNDING FOR WEATHER SERVICES.—Section 506(d) is amended— 49 USC app. 2205.

(A) by striking out "$26,700,000" and all that follows through "1986; and"; and

(B) by inserting before the period at the end thereof the following: "and $30,000,000 per fiscal year for each of fiscal years 1988, 1989, and 1990".

(d) LIMITATION ON USES OF TRUST FUND.—

(1) FUNDING OF AIRPORT IMPROVEMENT PROGRAM.—Section 506(e)(1) is amended by inserting "and section 505" before the period.

(2) EXTENSION.—Section 506(e)(5) is amended by striking out "1987" and inserting in lieu thereof "1992".

(e) AIRPORT DEVELOPMENT AND PLANNING.—Section 505(a) is amended by striking out the second sentence and inserting in lieu thereof the following: "The aggregate amounts which shall be available after September 30, 1981, to the Secretary for such grants and for grants for airport noise compatibility planning under section 103(b) of the Aviation Safety and Noise Abatement Act of 1979 and for carrying out noise compatibility programs or parts thereof under section 104(c) of such Act shall be $5,116,700,000 of which $475,000,000 shall be credited to the supplementary discretionary fund established by section 507(a)(3)(B) for fiscal years ending before October 1, 1987, $6,816,700,000 for fiscal years ending before October 1, 1988, $8,516,700,000 for fiscal years ending before October 1, 1989, $10,216,700,000 for fiscal years ending before October 1, 1990, $12,016,700,000 for fiscal years ending before October 1, 1991, and $13,816,700,000 for fiscal years ending before October 1, 1992.". 49 USC app. 2204.

(f) DISADVANTAGED BUSINESS ENTERPRISES.—Section 505 is amended by adding at the end thereof the following new subsection:

"(d) DISADVANTAGED BUSINESS ENTERPRISES.—

"(1) GENERAL RULE.—Except to the extent that the Secretary determines otherwise, not less than 10 percent of the amounts made available under subsection (a) in a fiscal year beginning after September 30, 1987, shall be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) SMALL BUSINESS CONCERN.—The term 'small business concern' has the meaning such term has under section 3 of the Small Business Act (15 U.S.C. 632); except that such term shall not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals which has average annual gross receipts over the preceding 3 fiscal years in excess of $14,000,000, as adjusted by the Secretary for inflation.

"(B) SOCIALLY AND ECONOMICALLY DISADVANTAGED INDIVIDUALS.—The term 'socially and economically disadvantaged individuals' has the meaning such term has under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and relevant subcontracting regulations promulgated pursuant thereto; except that women shall be presumed to be socially and economically disadvantaged for purposes of this subsection.

"(3) ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State or airport sponsor shall annually survey and compile a list of the small business concerns referred to in paragraph (1) and the location of such concerns in the State.

"(4) UNIFORM CERTIFICATION.—The Secretary shall establish minimum uniform criteria for State governments and airport sponsors to use in certifying whether a concern qualifies for purposes of this subsection. Such minimum uniform criteria shall include but not be limited to on-site visits, personal interviews, licenses, analysis of stock ownership, listing of equipment, analysis of bonding capacity, listing of work completed, resume of principal owners, financial capacity, and type of work preferred.".

49 USC app. 2205.

(g) CONFORMING AMENDMENTS.—(1) Section 506(a) is further amended—

(A) in paragraph (3), as redesignated by subsection (a)(1) of this section, by inserting "SITE PREPARATION WORK.—" before "The costs of"; and

(B) aligning such paragraph (3) with paragraph (1), as inserted by subsection (a)(2) of this section.

(2) Section 506(c) is further amended—

(A) in paragraph (1) by inserting "DESCRIPTION.—" before "The balance";

(B) in paragraph (2) by inserting "FISCAL YEARS 1982-1987.—" before "The amount appropriated"; and

(C) by indenting paragraph (1) and aligning such paragraph and paragraph (2) with paragraph (3) of such section, as added by subsection (c) of this section.

(3) Section 506(e)(2) is amended by striking out "and (d) and the third sentence of section (c)" and inserting in lieu thereof "(c), and (d)".

(h) SPECIAL RULE FOR HAWAII.—Notwithstanding any other provision of law, funds made available to the State of Hawaii under section 505 of the Airport and Airway Improvement Act of 1982 may be used to acquire properties referred to as areas 46A and 46B of the United States General Services Administration Facility Site in Moanalua, Honolulu, Oahu, Hawaii, or to reimburse the State of Hawaii for such acquisition.

SEC. 106. APPORTIONMENT OF FUNDS.

(a) GENERAL RULES.—Section 507 is amended to read as follows:

49 USC app. 2206.

"SEC. 507. APPORTIONMENT OF FUNDS.

"(a) APPORTIONMENT.—On the first day of each fiscal year for which any amount is authorized to be obligated for the purposes of section 505 of this title, the amount made available for the fiscal year under such section and not previously apportioned shall be apportioned by the Secretary as follows:

"(1) PRIMARY AIRPORTS.—To the sponsor of each primary airport, as follows:

"(A) $7.80 for each of the first 50,000 passengers enplaned at the airport;

"(B) $5.20 for each of the next 50,000 passengers enplaned at the airport;

"(C) $2.60 for each of the next 400,000 passengers enplaned at the airport; and

"(D) $0.65 for each additional passenger enplaned at the airport.

"(2) Cargo service airports.—To the sponsors of airports which are served by aircraft providing air transportation of only property (including mail) with an aggregate annual landed weight in excess of 100,000,000 pounds, 3 percent of the amount made available under section 505 for such fiscal year (but not to exceed $50,000,000) as follows: In the proportion which the aggregate annual landed weight of all such aircraft landing at each such airport bears to the total aggregate annual landed weight of all such aircraft landing at all such airports.

"(3) States.—To the States, 12 percent of the amount made available under section 505 for such fiscal year, as follows:

"(A) Insular areas.—For airports, 1 percent of such amounts to Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands.

Guam.
American Samoa.
Northern Mariana Islands.
Trust Territory of the Pacific Islands.
Virgin Islands.

"(B) States.—For airports, other than primary airports and airports described in section 508(d)(3), ½ of the remaining 99 percent in the proportion which the population of each State (other than a State to which subparagraph (A) applies) bears to the total population of all such States and ½ of the remaining 99 percent in the proportion which the area of each such State bears to the total area of all such States.

"(b) Special Rules.—

"(1) Maximum and minimum amounts for primary airports.—The Secretary shall not apportion less than $300,000 nor more than $16,000,000 under subsection (a)(1) to an airport sponsor for any primary airport for any fiscal year.

"(2) Limitation on total apportionments to primary and cargo service airports.—

"(A) General rule.—In no event shall the total amount of all apportionments under subsections (a)(1) and (a)(2) for any fiscal year exceed 49.5 percent of the amount authorized to be obligated for such fiscal year for the purposes of section 505 of this title.

"(B) Distribution.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(3) Effect of obligation ceiling on primary and cargo service apportionments.—

"(A) Overall limit.—If any Act of Congress has the effect of limiting or reducing the amount authorized or available to be obligated for any fiscal year for the purposes of section 505 of this title, the total amount of all apportionments under subsections (a)(1) and (a)(2) for such fiscal year shall not exceed 49.5 percent of such limited or reduced amount.

"(B) Distribution.—In any case in which apportionments in a fiscal year would be reduced by subparagraph (A), the Secretary shall for such fiscal year reduce the apportionment to each sponsor of an airport under subsections (a)(1) and (a)(2) proportionately so that such 49.5 percent amount is achieved.

"(4) MAXIMUM PERCENTAGE OF APPORTIONMENTS TO ANY CARGO SERVICE AIRPORT.—The Secretary shall not apportion to the sponsor of any airport more than 8 percent of the total amount of apportionments under subsection (a)(2) for any fiscal year.

"(5) TREATMENT OF ALASKA.—

"(A) APPORTIONMENT FORMULA.—Notwithstanding any other provision of subsection (a), for any fiscal year for which funds are made available under section 505 of this title the Secretary may apportion funds for airports in the State of Alaska in the same manner in which funds were apportioned in fiscal year 1980 under section 15(a) of the Airport and Airway Development Act of 1970.

"(B) MINIMUM APPORTIONMENT.—In no event shall the total amount apportioned for such airports under this paragraph for any fiscal year be less than the minimum amounts that were required to be apportioned to such airports in fiscal year 1980 under section 15(a)(3)(A) of such Act.

"(C) HOLD HARMLESS.—In no event shall a primary airport be apportioned less under this paragraph for a fiscal year than it would be apportioned for such fiscal year under subsection (a)(1).

"(D) EXPENDITURES AT COMMERCIAL SERVICE AIRPORTS.—In no event shall the amount of funds apportioned under this paragraph which are expended at any commercial service airport in the State of Alaska during a fiscal year exceed 110 percent of the amount apportioned to such airport for such fiscal year.

"(E) DISCRETIONARY FUNDING.—Nothing in this paragraph shall be construed as prohibiting the Secretary from making additional project grants to airports in the State of Alaska from the discretionary fund established by subsection (c).

"(6) ELIGIBILITY.—

"(A) ALASKA.—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the State of Alaska may be made available by the Secretary for public airports described in section 508(d)(3)(C) in such State.

"(B) PUERTO RICO.—Notwithstanding subsection (a)(3)(B), funds apportioned under such subsection for airports in the Commonwealth of Puerto Rico may be made available by the Secretary for primary airports and airports described in section 508(d)(3) in such Commonwealth.

Grants.

"(c) DISCRETIONARY FUND.—

"(1) ESTABLISHMENT.—Subject to section 508(d) and paragraph (2) of this subsection any amounts—

"(A) which are made available for a fiscal year under section 505,

"(B) which have not been previously apportioned by the Secretary, and

"(C) which are not apportioned under subsections (a) and (b)(5) of this subsection,

shall constitute a discretionary fund to be distributed at the discretion of the Secretary. Such discretionary fund shall be used for making grants for any of the purposes for which funds are made available under section 505 as the Secretary considers most appropriate for carrying out the purposes of this title.

"(2) LEVEL OF FUNDING FOR PRESERVING AND ENHANCING CAPACITY, SAFETY, AND SECURITY.—Subject to section 508(d) and paragraph (4) of this subsection, not less than 75 percent of the funds in the discretionary fund pursuant to paragraph (1) and distributed by the Secretary under this subsection in a fiscal year beginning after September 30, 1987, shall be used for making grants for any of the following purposes: preserving and enhancing capacity, safety, and security at primary airports and reliever airports and carrying out airport noise compatibility planning and programs at primary airports and reliever airports.

"(3) SELECTION CRITERIA.—In selecting projects for grants described in paragraph (2) for preserving and enhancing capacity at airports, the Secretary shall consider each proposed project's effect on overall national air transportation system capacity, project benefit and cost, and the financial commitment of the airport operator or other non-Federal funding sources to preserve or enhance airport capacity.

"(4) LIMITATION.—If the Secretary determines that the Secretary will not be able to comply with the percentage requirement established by paragraph (2) in any fiscal year because the number of qualified applications submitted in compliance with this title is insufficient to meet such percentages, the portion of funds which the Secretary determines will not be so distributed shall be available for obligation during such fiscal year without regard to such requirement.

"(d) CALENDAR YEAR AS BASIS FOR DETERMINING CERTAIN APPORTIONMENTS.—

"(1) PASSENGERS ENPLANED.—For purposes of determining apportionments for any fiscal year under subsection (a)(1), the number of passengers enplaned at an airport shall be based on the number of passengers enplaned at such airport during the preceding calendar year.

"(2) LANDED WEIGHT.—For purposes of determining apportionments for any fiscal year under subsection (a)(2), the landed weight of aircraft landing at an airport referred to in subsection (a)(2) shall be based on the landed weight of aircraft landing at such airport and all such airports during the preceding calendar year.

"(e) DEFINITIONS.—As used in subsection (a)(3)—

"(1) POPULATION.—The term 'population' means the population according to the latest decennial census of the United States.

"(2) AREA.—The term 'area' includes both land and water.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION 505.—Section 505(a) is amended by striking out "sections 507(a)(1), (2), (3)(A), or" and inserting in lieu thereof "sections 507(a)(1), 507(a)(2), 507(a)(3), 507(c), and". 49 USC app. 2204.

(2) SECTION 508.—Section 508 is amended— 49 USC app. 2207.

(A) in subsection (a) by striking out "paragraph (1), (2), or (4) of section 507(a)" and inserting in lieu thereof "subsection (a) or (b)(5) of section 507";

(B) in subsection (a) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)";

(C) in subsection (c) by striking out "507(a)(2)" each place it appears and inserting in lieu thereof "507(a)(3)";

(D) in subsection (d)(3) by striking out "paragraph (4) of section 507(a)" and inserting in lieu thereof "section 507(b)(5)"; and

(E) in subsection (e)(1) by striking out "507(a)" and inserting in lieu thereof "507(a) or 507(b)(5)".

49 USC app. 2208.

(3) SECTION 509.—Section 509 is amended—

(A) in subsection (a)(2) by striking out "507(a)" and inserting in lieu thereof "507"; and

(B) in subsection (e) by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or 507(a)(2)".

49 USC app. 2211.

(4) SECTION 512.—Section 512(a) is amended by striking out "507(a)(1)" and inserting in lieu thereof "507(a)(1) or 507(a)(2)".

49 USC app. 2212.

(5) SECTION 513.—Section 513(b) is amended—

(A) in paragraph (2) by striking out "507(a)(3)" and inserting in lieu thereof "507(c)"; and

(B) in paragraph (4) by striking out "507(a)" and inserting in lieu thereof "507(a) or 507(b)(5)".

49 USC app. 2204 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect October 1, 1987, and apply to fiscal years beginning on and after such date.

49 USC app. 2207.

SEC. 107. LIMITATIONS ON USES OF FUNDS.

(a) NOISE COMPATIBILITY PLANNING AND PROGRAMS.—Section 508(d)(2) is amended by striking out "8 percent" and inserting in lieu thereof "10 percent".

(b) REDUCTION IN SET ASIDE FOR SMALL AIRPORTS.—Section 508(d)(3) is amended by striking out "5.5 percent" each place it appears and inserting in lieu thereof "2.5 percent".

(c) INTEGRATED AIRPORT SYSTEM PLANNING.—Section 508(d)(4) is amended by striking out "one percent" and inserting in lieu thereof "½ of 1 percent".

(d) CONFORMING AMENDMENT.—Section 508(d)(2) is amended—

(1) by striking out "(A)"; and

(2) by striking out ", and (B) in the case of fiscal year 1982, for any of the purposes set forth in section 505(c) of this title".

SEC. 108. STATE SPONSORSHIP.

49 USC app. 2208.

Section 509(a) is amended by adding at the end thereof the following new paragraph:

"(3) STATE SPONSORSHIP.—Nothing in this title shall preclude a State from submitting, as sole sponsor, a project application under this title for an airport development project benefitting 2 or more airports in the State or airport planning for similar projects at 2 or more airports in the State if—

"(A) the sponsors of such airports consent in writing to State sponsorship of such projects or planning;

"(B) the Secretary is satisfied that there is administrative merit and aeronautical benefit to State sponsorship of such projects or planning; and

"(C) an acceptable agreement exists to ensure compliance by the State with appropriate grant conditions and other assurances required by the Secretary.".

SEC. 109. PROJECT SPONSORSHIP.

(a) NONDISCRIMINATION ASSURANCE.—Section 511(a)(1)(A) is amended— 49 USC app. 2210.

(1) by inserting "with respect to facilities directly and substantially related to providing air transportation" after "and other charges";

(2) by striking out "and combined passenger and cargo flights or all cargo flights," and inserting in lieu thereof "and signatory carriers and nonsignatory carriers,";

(3) by inserting "or signatory" after "or status as tenant"; and

(4) by striking out "on tenant air carriers," and inserting in lieu thereof "on air carriers in such classification or status,".

(b) APPROVAL OF NONAERONAUTICAL CLOSING OF AIRPORTS.—Section 511(a)(3) is amended by inserting before the semicolon at the end thereof the following: ", and any proposal to temporarily close the airport for nonaeronautical purposes must first be approved by the Secretary".

(c) TERMINAL AIRSPACE ASSURANCE.—Section 511(a)(4) is amended to read as follows:

"(4) appropriate action will be taken to assure that such terminal airspace as is required to protect instrument and visual operations to the airport (including established minimum flight altitudes) will be adequately cleared and protected by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards;".

(d) REVENUE ASSURANCE.—Section 511(a)(12) is amended to read as follows:

Taxes.

"(12) all revenues generated by the airport, if it is a public airport, and any local taxes on aviation fuel (other than taxes in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987) will be expended for the capital or operating costs of the airport, the local airport system, or other local facilities which are owned or operated by the owner or operator of the airport and directly and substantially related to the actual air transportation of passengers or property; except that if covenants or assurances in debt obligations issued before September 3, 1982, by the owner or operator of the airport, or provisions enacted before September 3, 1982, in the governing statutes controlling the owner or operator's financing, provide for the use of the revenues from any of the airport owner or operator's facilities, including the airport, to support not only the airport but also the airport owner or operator's general debt obligations or other facilities, then this limitation on the use of all other revenues generated by the airport (and, in the case of a public airport, local taxes on aviation fuel) shall not apply;".

(e) DISPOSAL OF LAND ASSURANCES.—Section 511(a) is amended by striking out paragraph (13) and inserting in lieu thereof the following new paragraphs:

"(13) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport noise compatibility purposes—

"(A) the owner or operator will, when the land is no longer needed for such purposes, dispose of such land at fair market value at the earliest practicable time;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will, at the discretion of the Secretary—

"(i) be paid to the Secretary for deposit in the Trust Fund; or

"(ii) be reinvested in an approved noise compatibility project as prescribed by the Secretary;

"(14) if the airport operator or owner receives a grant before, on, or after the date of the enactment of this paragraph for the purchase of land for airport purposes (other than noise compatibility purposes)—

"(A) the owner or operator will, when the land is no longer needed for airport purposes, dispose of such land at fair market value;

"(B) such disposition will be subject to the retention or reservation of any interest or right therein necessary to ensure that such land will only be used for purposes which are compatible with noise levels associated with the operation of the airport; and

"(C) that portion of the proceeds of such disposition which is proportionate to the United States share of the cost of acquisition of such land will be paid to the Secretary for deposit in the Trust Fund;".

49 USC app. 2210.

(f) Airport Layout Plan Assurance.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(15) the airport owner or operator will keep up to date at all times a layout plan of the airport which meets the following requirements:

"(A) the plan will be in a form prescribed by the Secretary;

"(B) before the plan and an amendment, revision, or modification thereof may take effect, the plan, amendment, revision, or modification will be submitted to, and receive approval of, the Secretary;

"(C) the owner or operator will not make or permit any changes or alterations in the airport or in any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the opinion of the Secretary, adversely affect the safety, utility, or efficiency of the airport;

"(D) if a change or alteration in the airport or its facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested by the Secretary—

"(i) eliminate such adverse effect in a manner approved by the Secretary; or

"(ii) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities;".

(g) Assurance Relating to Contracting for Engineering and Design Services.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(16) each contract or subcontract for program management, construction management, planning studies, feasibility studies, architectural services, preliminary engineering, design, engineering, surveying, mapping, or related services with respect to the project will be awarded in the same manner as a contract for architectural and engineering services is negotiated under title IX of the Federal Property Administrative Services Act of 1949 or an equivalent qualifications-based requirement prescribed for or by the sponsor of the airport; and".

(h) Assurance Relating to Disadvantaged Business Enterprises.—Section 511(a) is further amended by adding at the end thereof the following new paragraph:

"(17) the airport owner or operator will take such action as may be necessary to ensure that, to the maximum extent practicable, at least 10 percent of all businesses at the airport which sell food, beverages, printed materials, or other consumer products to the public are small business concerns (as defined by the Secretary by regulation) owned and controlled by socially and economically disadvantaged individuals (as defined under section 505(d)(2)(B)).".

(i) Use of State Taxes on Aviation Fuel.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(d) Use of State Taxes on Aviation Fuel.—Nothing in subsection (a)(12) of this section shall preclude the use of State taxes on aviation fuel to support a State aviation program or preclude use of airport revenue on or off the airport for noise mitigation purposes.".

(j) Use of Land Disposal Funds.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(e) Use of Land Disposal Funds.—

"(1) Airport noise compatibility lands.—Amounts deposited in the Trust Fund in accordance with subsection (a)(13) of this section shall be available to the Secretary for making grants for airport development and airport planning under section 505(a). Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).

"(2) Other airport lands.—Amounts deposited in the Trust Fund in accordance with subsection (a)(14) of this section—

"(A) shall be available to the Secretary for making grants at the discretion of the Secretary for the purposes described in section 507(c)(2) at primary airports and reliever airports; and

"(B) shall be available to the Secretary for use in accordance with section 507(a)(3) at other airports in the State in which the land disposition occurred under subsection (a)(14).

Such amounts shall be in addition to amounts made available to the Secretary under section 505 and not subject to the apportionment provisions of sections 507(a) and 507(b)(5).".

49 USC app. 2210.

(k) Procedures for Modifying Assurances.—Section 511 is further amended by adding at the end thereof the following new subsection:

"(f) Procedures for Modifying Assurances.—If the Secretary proposes to modify any assurance required of a person receiving a grant under this Act and in effect on or after the date of the enactment of this subsection or proposes to require compliance with any additional assurance from such person, the Secretary shall first—

Federal Register, publication.

"(1) publish notice of such proposal in the Federal Register, and

"(2) provide an opportunity for comment on such proposal.".

SEC. 110. GRANT AGREEMENTS.

49 USC app. 2211.

(a) Maximum Obligation of the United States.—Section 512(b) is amended to read as follows:

"(b) Maximum Obligation of the United States.—

"(1) General rule.—Subject to paragraphs (2) and (3) of this subsection, when an offer is accepted in writing by a sponsor, the amount stated in the offer as the maximum obligation of the United States may not be increased.

"(2) Exceptions for fiscal years 1987 and before.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title on or before September 30, 1987, may be increased—

"(A) by not more than 10 percent in the case of a project for airport development (other than a project for land acquisition); and

"(B) by an amount not to exceed 50 percent of the total increase in allowable project costs attributable to an acquisition of land or interests in land, based upon current credible appraisals.

Any increase under this section may be paid only from funds recovered by the United States from other grants made under this title.

"(3) Exceptions for fiscal years 1988 and thereafter.—The maximum obligation of the United States under this subsection with respect to a project receiving assistance under a grant approved under this title or the Aviation Safety and Noise Abatement Act of 1979 after September 30, 1987, may be increased by not more than 15 percent in the case of a project for airport development.".

(b) Workscope.—Section 512 is amended by adding at the end thereof the following new subsection:

"(d) Workscope.—The Secretary may amend, with the consent of the grant recipient, a grant agreement entered into under this title to change the workscope of a project funded under such grant if such amendment does not result in any increase in the maximum obligation of the United States authorized under subsection (b) of this section.".

(c) Conforming Amendment.—Section 512(c) is amended by inserting "Maximum Obligation for Grants Under the Airport and Airway Development of 1970.—" before "Notwithstanding".

SEC. 111. PROJECT COSTS.

(a) Authority To Modify Certain Limitations on Expenditures for Terminal Development.—

(1) Obligation limitation.—The first sentence of section 513(b)(2) is amended by striking out "Not more" and all that follows through "60 percent" and inserting in lieu thereof "All or any portion".

49 USC app. 2212.

(2) Maximum federal share.—Section 513(b)(5) is amended by striking out "50 percent" and inserting in lieu thereof "75 percent".

(b) Costs Not Allowed.—Section 513(c) is amended—

(1) by striking out "or" the first place it appears; and

(2) by inserting before the period at the end thereof the following: "; or (3) the cost of decorative landscaping or the provision or installation of sculpture or art works".

(c) Reimbursement for Certain Advance Expenditures.—Section 513 is amended by adding at the end thereof the following new subsection:

"(d) Reimbursement for Certain Advance Expenditures.—

"(1) Letters of intent.—

"(A) Announcement of intention.—The Secretary is authorized to announce an intention to obligate for an airport development project (including formulation of the project) at a primary airport or a reliever airport under this subsection through the issuance of a letter of intent to the applicant.

"(B) Schedule of reimbursement.—Subject to the provisions of this paragraph, a letter of intent issued under this paragraph shall establish a schedule under which the Secretary will make payments under paragraph (2) of this subsection to the sponsor of the airport at which the airport development project will be carried out.

"(C) Limitation on projects eligible for advance funding.—The provisions of this subsection only apply to an airport development project—

"(i) regarding which the sponsor notifies the Secretary of the sponsor's intent to carry out such project before commencement of such project;

"(ii) which will be carried out in accordance with all applicable statutory and administrative requirements that would be applicable to the project if the project were being carried out with funds made available under this title; and

"(iii) which the Secretary determines will result in a significant enhancement of system-wide airport capacity and meets the criteria of section 507(c)(3).

Clause (i) shall not apply to a project which is commenced on or after November 20, 1987, and for which a letter of intent is signed under this subsection in the 90-day period beginning on the date of the enactment of this subsection.

"(D) Limitation on effect.—An action under subparagraph (A) shall not be deemed an obligation of the United States Government under section 1501 of title 31, United States Code, and a letter of intent issued under this paragraph shall not be deemed to be an administrative commitment for funding.

"(E) TREATMENT OF LETTER.—A letter of intent under this paragraph shall be regarded as an intention to obligate from future budget authority not to exceed an amount stipulated as the United States share of allowable project costs for the project under this subsection. No obligation or administrative commitment may be made pursuant to such a letter of intent except as funds are provided in authorization and appropriation Acts.

"(F) LIMITATIONS ON AGGREGATE AMOUNT.—The total estimated amount of future Federal obligations covered by all outstanding letters of intent under this paragraph shall not exceed the amount authorized to carry out section 505(a), less an amount reasonably estimated by the Secretary to be necessary for grants under section 505(a) which are not covered by a letter of intent.

"(2) REIMBURSEMENT.—If the Secretary issues under paragraph (1) a letter of intent to obligate funds for an airport development project (including formulation of the project) at a primary airport or reliever airport and if the sponsor of such airport proceeds with such project without the aid of funds under this title, the Secretary shall pay, as funds become available, the sponsor for the United States share of allowable project costs payable on account of such project in accordance with such letter of intent.".

49 USC app. 2218.

SEC. 112. LIMITATION ON POWERS.

Section 519 is amended—

(1) by inserting "(a) GENERAL RULE.—" before "The Secretary"; and

(2) by adding at the end thereof the following new subsection:

"(b) LIMITATIONS.—

"(1) WITHHOLDING OF APPROVAL.—The Secretary may not withhold approval of a grant application for funds apportioned under sections 507(a)(1), 507(a)(2), and 507(b)(5) for a violation of an assurance or other requirement of this title unless—

"(A) the Secretary provides the applicant with an opportunity for a hearing; and

"(B) within 180 days after the date of such application or the date the Secretary first knows of such noncompliance, whichever is later, the Secretary makes a determination that the violation has occurred.

"(2) WITHHOLDING OF PAYMENT.—The Secretary may not withhold a payment under any grant agreement entered into under this title for more than 180 days after the date such payment is due—

"(A) without providing the recipient of such payment with notice and an opportunity for a hearing; and

"(B) without determining that the grant recipient has violated such agreement.

"(3) EXTENSION OF TIME LIMITS.—The time limits established by paragraphs (1) and (2) of this section may be extended—

"(A) by mutual agreement of the Secretary and the grant applicant or recipient, as the case may be; or

"(B) at the discretion of the hearing officer if the hearing officer determines that such extension is necessary as a result of a failure of the applicant or recipient to adhere to the hearing schedule established by such officer.

"(4) JUDICIAL REVIEW.—A person aggrieved by an order of the Secretary withholding (A) approval of a grant application under paragraph (1), and (B) a payment under a grant agreement under paragraph (2), may obtain review of the order by petition to the Court of Appeals for the District of Columbia Circuit or the court of appeals for the circuit in which the project is located. Such petition shall be filed not later than 60 days after the date on which the order is served on the petitioner.".

SEC. 113. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

Section 528 is amended to read as follows:

"SEC. 528. PART-TIME OPERATION OF FLIGHT SERVICE STATIONS.

49 USC app. 2224.

"(a) GENERAL RULE.—On or after July 15, 1987, the Secretary shall not close, or reduce the hours of operation of, any flight service station in any area unless the service provided in such area after the closure of such station or during the hours such station is not in operation will be provided by an automated flight service station with model 1 or better equipment.

"(b) RULE FOR CERTAIN CLOSED STATIONS.—As soon as practicable after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, the Secretary shall reopen any flight service station closed between March 25, 1987, and July 14, 1987, if the service provided in the area in which such station is located since the date of such closure has not been provided by an automated flight service station with model 1 or better equipment. The hours of operation for such station shall be the same as the hours of operation of such station on March 25, 1987. After reopening such station, the Secretary may only close or reduce the hours of operation of such station in accordance with subsection (a).".

SEC. 114. EXPLOSIVE DETECTION K-9 TEAMS.

49 USC app. 2225.

Section 529 is amended—

(1) in the first sentence by striking out "shall" and inserting in lieu thereof "may"; and

(2) by striking out the second sentence.

SEC. 115. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

The Airport and Airway Improvement Act of 1982 is amended by adding at the end thereof the following new section:

"SEC. 533. DENIAL OF FUNDS FOR PROJECTS USING PRODUCTS OR SERVICES OF FOREIGN COUNTRIES THAT DENY FAIR MARKET OPPORTUNITIES.

Commerce and trade.
49 USC app. 2226.

"(a) IN GENERAL.—

"(1) PROHIBITION ON FUNDING.—No funds made available under this Act may be used to fund any project which uses any product or service of a foreign country during any period in which such foreign country is listed by the United States Trade Representative under subsection (c).

"(2) LIMITATION ON APPLICABILITY.—Paragraph (1) shall not apply with respect to the use of a product or service in a project if the Secretary determines that—

"(A) the application of paragraph (1) to such product, service, or project would not be in the public interest, "(B) products of the same class or kind as such product or service are not produced or offered in the United States, or in any foreign country that is not listed under subsection (c), in sufficient and reasonably available quantities and of a satisfactory quality, or

"(C) exclusion of such product or service from the project would increase the cost of the overall project contract by more than 20 percent.

"(b) DETERMINATIONS.—

"(1) DEADLINE.—By no later than the date which is 30 days after the date on which each report is submitted to the Congress under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)), the United States Trade Representative shall make a determination with respect to each foreign country of whether or not such foreign country—

"(A) denies fair and equitable market opportunities for products and suppliers of the United States in procurement, or

"(B) denies fair and equitable market opportunities for United States bidders,

for construction projects that cost more than $500,000 and are funded (in whole or in part) by the government of such foreign country.

"(2) INFORMATION CONSIDERED.—In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181 of the Trade Act of 1974 and such other information as the United States Trade Representative considers to be relevant.

"(c) LISTING OF FOREIGN COUNTRIES.—

"(1) GENERAL RULE.—The United States Trade Representative shall maintain a list of each foreign country with respect to which an affirmative determination is made under subsection (b).

"(2) REMOVAL FROM LIST.—Any foreign country that is added to the list maintained under paragraph (1) shall remain on the list until the United States Trade Representative determines that such foreign country does permit the fair and equitable market opportunities described in subparagraphs (A) and (B) of subsection (b)(1).

Federal Register, publication.

"(3) PUBLICATION.—The United States Trade Representative shall annually publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made between annual publications of the entire list.

"(d) SPECIAL RULES.—

"(1) For purposes of this section, each foreign instrumentality, and each territory or possession of a foreign country, that is administered separately for customs purposes shall be treated as a separate foreign country.

"(2) For purposes of this section, any article that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

"(3) For purposes of this section, any service provided by a person that is a national of a foreign country, or is controlled by nationals of a foreign country, shall be considered to be a service of such foreign country.".

SEC. 116. STATE BLOCK GRANT PILOT PROGRAM.

The Airport and Airway Improvement Act of 1982 is further amended by adding at the end the following new section:

"SEC. 534. STATE BLOCK GRANT PILOT PROGRAM.

49 USC app. 2227.
Regulations.

"(a) **Promulgation of Regulations; Effective Period.**—Not later than 180 days after the date of the enactment of this section, the Secretary shall promulgate regulations to implement a State block grant pilot program to become effective on October 1, 1989. Such program shall not be effective after September 30, 1991.

Termination date.
Regulations.

"(b) **Assumption of Certain Responsibilities.**—Such regulations shall provide that the Secretary may designate not more than 3 qualified States to assume administrative responsibility for all airport grant funding available under this title, other than funding which has been designated for use at primary airports.

"(c) **Selection of State Participants.**—The Secretary shall select States for participation in such program on the basis of applications submitted to the Secretary. The Secretary shall select a State only if the Secretary determines that the State—

"(1) has an agency or organization capable of administering effectively any block grant made under this section;

"(2) uses a satisfactory airport system planning process;

"(3) uses a programming process acceptable to the Secretary;

"(4) has agreed to comply with Federal procedural and other standard requirements for administering any such block grant; and

"(5) has agreed to provide the Secretary with such program information as the Secretary may require.

Before determining that any planning process is satisfactory or any programming process is acceptable, the Secretary shall ensure that such process provides for meeting critical safety and security needs and that the programming process ensures that the needs of the national airport system will be addressed in deciding to which projects funds will be provided.

"(d) **Review and Report.**—The Secretary shall conduct an ongoing review of the program established under this section, and shall, not later than 90 days before its scheduled termination, report to Congress the results of such review, together with recommendations for further action relating to the program.".

TITLE II—FEDERAL AVIATION ACT AMENDMENTS

SEC. 201. AMENDMENT OF FEDERAL AVIATION ACT OF 1958.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301-1551).

SEC. 202. ESSENTIAL AIR SERVICE.

(a) **Fiscal Year** 1987.—

49 USC app. 1389.

(1) Transfer of operational authority.—Section 419 is amended by adding at the end of subsection (a) the following new paragraph:

"(12) If an air carrier which is providing on or after October 1, 1987, essential air transportation under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such transportation and another air carrier is secured to provide such transportation on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.".

(2) Termination date.—Section 419(g) is amended by striking out "the last day" and all that follows through the period at the end thereof and inserting in lieu thereof "September 30, 1988.".

49 USC app. 1389 note.

(3) Effective date.—The amendments made by this subsection shall take effect October 1, 1987.

(b) Fiscal Years 1988–1998.—

(1) General rules.—Section 419 is amended to read as follows:

"SEC. 419. SMALL COMMUNITY AIR SERVICE.

"(a) Eligible Point Defined.—For the purposes of this section, the term 'eligible point' means any point in the United States—

"(1) which is defined as an eligible point under this section as in effect before October 1, 1988, and which, at any time in the 12-month period ending on such date, received scheduled air transportation, and

"(2) which the Secretary determines is 45 highway miles or more from the nearest hub airport.

State and local governments.

"(b) Basic Essential Air Service.—

"(1) Level of service.—

"(A) Determination for essential air service points.—With respect to each eligible point for which a determination of what constitutes essential air transportation was made under this section before October 1, 1988, the Secretary shall determine what is basic essential air service for such point. Such determination shall be made no later than the last day of the 1-year period beginning on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987 and only after consideration of the views of any interested community and the State agency of the State in which such community is located.

"(B) Determination for other points.—With respect to each eligible point for which a determination of what constitutes essential air transportation was not made before October 1, 1988, the Secretary shall determine what is basic essential air service to such point if the Secretary receives notice that service to such point will be provided by only 1 air carrier. Such determination shall be made no later than the last day of the 6-month period beginning on the date on which the Secretary receives such notice and only after the

Secretary considers the views of any interested community and the State agency of the State in which such community is located. The Secretary may impose such notice requirements as may be necessary to implement this subparagraph.

"(C) CONTINUATION OF REQUIREMENT; TRANSITION PROVISIONS.—An air carrier required to provide essential air transportation before October 1, 1988, to an eligible point shall be required to continue to provide such transportation to such point after such date and the level of such transportation shall be deemed to be basic essential air service for purposes of this subsection until a determination is made under subparagraph (A) with respect to such point. The rate of compensation in effect for essential air transportation before such date shall continue in effect until a new rate is determined in accordance with the guidelines under subsection (f) of this section.

"(D) REVIEW.—The Secretary shall periodically review the basic essential air service level for each eligible point, and may, based upon such review and consultations with the interested community and the State agency of the State in which such community is located, make appropriate adjustments to the basic essential air service level.

"(2) NOTICE REQUIRED BEFORE TERMINATION, SUSPENSION, OR REDUCTION IN SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to any eligible point below the level of basic essential air service established under paragraph (1) unless such air carrier has given the Secretary, the appropriate State agency or agencies, and the communities affected at least 90 days notice before such termination, suspension, or reduction.

"(3) DETERMINATION OF NEED FOR COMPENSATION.—

"(A) SELECTION OF CARRIER.—Whenever the Secretary determines that basic essential air service will not be provided to an eligible point without compensation, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide such service to such point for compensation under this subsection. In selecting an applicant to provide basic essential air service to a point for compensation the Secretary shall, among other factors, consider—

"(i) the applicant's demonstrated reliability in providing scheduled air service;

"(ii) the contractual and marketing arrangements that the applicant has made with a larger air carrier to assure service beyond the hub airport;

"(iii) the interline arrangements which the applicant has made with a larger air carrier which allow passengers and cargo of the applicant at the hub airport to be transported by such large carrier through one reservation, one ticket, and one baggage check-in;

"(iv) the preferences of the actual and potential users of air transportation at the eligible point, giving substantial weight to the views of elected officials representing such users; and

"(v) with respect to any eligible point in the State of Alaska, the experience of an applicant in providing Alaska.

scheduled air service, or significant patterns of nonscheduled air service pursuant to an exemption granted pursuant to section 416 of this title, in Alaska.

"(B) RATE OF COMPENSATION.—The Secretary shall establish, in accordance with the guidelines promulgated under subsection (f), the rate of compensation to be paid for providing basic essential air service under this subsection.

"(4) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to any air carrier to provide basic essential air service to an eligible point only for so long as the Secretary determines it is necessary in order to maintain basic essential air service to such point.

"(5) REQUIREMENT TO CONTINUE SERVICE.—If an air carrier has provided notice to the Secretary under paragraph (2) of such air carrier's intention to suspend, terminate, or reduce service to any eligible point below the level of basic essential air service to such point, and if at the conclusion of the applicable period of notice the Secretary has not been able to find another air carrier to provide basic essential air service to such point, the Secretary shall require the carrier which provided such notice to continue such service to such point for an additional 30-day period, or until another air carrier has begun to provide basic essential air service to such point, whichever first occurs. If at the end of such 30-day period the Secretary determines that no other air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis, either with or without compensation, then the Secretary shall extend such requirement for such additional 30-day periods (making the same determination at the end of each such period) as may be necessary to continue basic essential air service to such eligible point until an air carrier can be secured to provide basic essential air service to such eligible point on a continuing basis.

"(6) COMPENSATION FOR CONTINUED SERVICE.—

"(A) CARRIERS RECEIVING COMPENSATION.—If an air carrier (i) which is providing air transportation to any eligible point, and (ii) which is receiving compensation under this subsection for providing such transportation, is required by the Secretary to continue service to such point beyond the date on which such carrier would, but for paragraph (5), be able to suspend, terminate, or reduce such service below the level of basic essential air service to such point, then after such date such carrier shall continue to receive such compensation until the Secretary secures another air carrier to provide basic essential air service to such point or the 90th day following such date, whichever is earlier. If, after such 90th day, the Secretary has not secured another air carrier to provide such service, the carrier required to continue to provide such service shall receive compensation in an amount sufficient—

"(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

"(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

"(B) Carriers not receiving compensation.—If the Secretary requires an air carrier which is providing air transportation to an eligible point without compensation pursuant to paragraph (4) to continue to provide basic essential air service to such point beyond the 90-day notice period after which, but for paragraph (5) of this subsection, such air carrier would be able to suspend, terminate, or reduce service to such point below basic essential air service for such point, then the Secretary shall compensate such air carrier in an amount sufficient—

"(i) to cover the carrier's fully allocated actual cost of performing the basic essential air service that was being provided at the time the 90-day notice of termination, suspension, or reduction of service is given to the Secretary under paragraph (2) plus a fair and reasonable return on investment which shall not be less than 5 percent of operating costs; and

"(ii) to provide the carrier an additional return which recognizes the demonstrated additional lost profits from opportunities foregone and the likelihood that such lost profits increase as the duration of the required basic essential air service increases.

"(7) Transfer of operational authority at certain high-density airports.—If an air carrier which is providing basic essential air service under this subsection between an eligible point and an airport at which the Administrator limits the number of instrument flight rule takeoffs and landings of aircraft provides notice to the Secretary of its intention to suspend, terminate, or reduce such service and another air carrier is secured to provide such service on a continuing basis, the Secretary shall require the carrier suspending, terminating, or reducing such service to transfer any operational authority which such carrier has to conduct a landing or takeoff at such airport with respect to such service to the carrier secured to provide such service unless the carrier secured to provide such service does not need such authority or such authority is being used to provide air service with respect to more than 1 eligible point.

"(8) Effort to secure carriers.—During any period for which the Secretary requires an air carrier to continue providing air transportation to an eligible point which such air carrier has proposed to terminate, reduce, or suspend, the Secretary shall continue to make every effort to secure an air carrier to provide at least basic essential air service to such eligible point, on a continuing basis.

"(9) Prohibition on certain reductions in service.—Unless the Secretary has determined what is basic essential air service for any eligible point pursuant to paragraph (1) of this subsection, the Secretary shall, upon petition of any appropriate representative of such point prohibit any termination, suspension, or reduction of air transportation which reasonably appears to deprive such point of basic essential air service, until the Secretary has completed such determination.

State and local governments.
Contracts.

"(c) Enhanced Essential Air Service.—

"(1) Proposal.—

"(A) Submission.—A State or local government may submit a proposal to the Secretary for enhanced essential air service to an eligible point with respect to which basic essential air service is being provided under subsection (b).

"(B) Contents.—A proposal submitted under this subsection shall specify the level and type of enhanced essential air service which the State or local government considers appropriate. Such proposal shall also include an agreement relating to compensation required for the proposed enhanced essential air service. Such agreement shall be subject to the requirements of subparagraph (C).

"(C) Compensation agreement.—The agreement relating to compensation included in the proposal submitted by a State or local government under this subsection shall either—

"(i) provide for the State or local government or any person to pay 50 percent of the compensation required for the proposed enhanced essential air service and for the Federal share of such compensation to be 50 percent; or

"(ii) provide for the Federal share for such compensation to be 100 percent and provide that, if the proposed service is not successful in terms of the criteria established under paragraph (3)(C) for not less than a 2-year period, the eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(2) Establishment of service.—Not later than 90 days after receiving a proposal under paragraph (1), the Secretary shall issue a decision on the proposal. The Secretary shall approve such proposal unless the Secretary determines that such proposal is not reasonable. If the Secretary determines that such proposal is not reasonable, the Secretary shall disapprove such proposal and notify the State or local government submitting such proposal of such disapproval and the reasons therefor.

"(3) Review.—

"(A) Proposals for 50 percent federal share.—If the enhanced essential air service approved under this subsection is to be at a 50 percent Federal share, the Secretary shall periodically review the level and type of such service to an eligible point and may, based upon such review and consultations with the community and the government or person paying the non-Federal share, make appropriate adjustments to the level and type of enhanced essential air service to such point.

"(B) Proposals for 100 percent federal share.—If the enhanced essential air service approved under this subsection is to be at a 100 percent Federal share, the Secretary shall periodically review air service provided to an eligible point under this subsection. If the Secretary finds, after consultation with the State or local government which submitted the proposal, that such service has not been successful in terms of the criteria established under subparagraph (C) for not less than a 2-year period, such eligible point shall not be eligible for air service for which compensation is payable by the Secretary under this section.

"(C) CRITERIA OF SUCCESS.—The Secretary shall establish, by regulation, objective criteria for determining whether or not enhanced essential air service to an eligible point provided under this subsection is successful in terms of increasing passenger usage of the airport facilities at such point and reducing the amount of compensation provided by the Secretary under this subsection for such service.

Regulations.

"(4) NOTICE BEFORE TERMINATION, SUSPENSION, OR REDUCTION OF SERVICE.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which a determination of enhanced essential air service has been made below the level of such service approved by the Secretary under this subsection unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction. Nothing in this paragraph relieves an air carrier of its obligations under subsection (b).

"(5) PAYMENT OF COMPENSATION.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay the compensation to an air carrier to provide enhanced essential air service to an eligible point only for so long as such carrier maintains the level of enhanced essential air service and the government or person agreeing to pay any non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(6) PAYMENT OF NON-FEDERAL SHARE.—The Secretary may require appropriate payment in advance or such other security to assure that non-Federal payments for enhanced essential air service under this subsection are made on a timely basis.

"(7) COMPENSATION FOR ENHANCED ESSENTIAL AIR SERVICE DEFINED.—For purposes of this subsection, compensation for enhanced essential air service to an eligible point covers only those costs incurred for providing air service to such point which are in addition to the costs incurred for providing basic essential air service to such point under this section.

"(d) COMPENSATION FOR SERVICE TO OTHER SMALL COMMUNITIES.—

State and local governments.

"(1) PROPOSAL.—A State or local government may make a proposal to the Secretary for compensated air transportation in accordance with this subsection to a point that is not an eligible point under this section.

"(2) DETERMINATION OF ELIGIBILITY.—

"(A) DESIGNATION OF POINTS.—Not later than 90 days after the submission of a proposal under this subsection, the Secretary—

"(i) shall determine whether or not to designate the point for which such proposal is made as eligible to receive compensation under this subsection; and

"(ii) shall approve or disapprove such proposal and notify the State or local government submitting such proposal of such decision.

The Secretary shall approve such proposal if the State or local government submitting the proposal or any other person is willing and able to pay 50 percent of the cost of providing the proposed compensated air transportation; except that the Secretary shall disapprove such proposal if the Secretary determines that such proposal is not reasonable. In the case of disapproval of a proposal, the notification of such disapproval must include the reasons for such disapproval.

"(B) SMALL COMMUNITY SERVICE.—Notwithstanding subparagraph (A)(ii), the Secretary shall approve a proposal submitted under this subsection for compensated air transportation to a point in the 48 contiguous States and designate such point as eligible for compensation under this subsection—

"(i) if, at any time before October 23, 1978, the point was served by an air carrier that held a certificate issued under section 401;

"(ii) if the point is more than 50 miles from the nearest small hub airport or an eligible point;

"(iii) if the point is more than 150 miles from the nearest hub airport; and

"(iv) if the State or local government submitting the proposal or any other person is willing and able to pay 25 percent of the cost of providing the proposed compensated air transportation.

"(C) CRITERIA FOR DETERMINING REASONABLENESS.—In determining whether or not a proposal submitted under this subsection is reasonable, the Secretary shall consider, among other factors, the traffic generating potential of the point, the cost to the Federal Government of providing the proposed service, and the distance of the point from the closest hub airport.

"(D) WITHDRAWAL OF DESIGNATION.—After notice and an opportunity for any interested person to comment, the Secretary may withdraw the designation of a point under subparagraph (A) as eligible to receive compensation under this subsection if the point has received air service under this subsection for at least 2 years and the Secretary determines that withdrawal of that designation would be in the public interest. The Secretary shall establish, by regulation, standards for determining whether or not withdrawal of a designation under this paragraph is in the public interest. Such standards shall include, but not be limited to, the factors set forth in subparagraph (C).

Regulations.

"(3) LEVEL OF SERVICE.—

"(A) INITIAL DETERMINATION.—If the Secretary designates a point under paragraph (2), the Secretary shall determine the level of service to be provided under this subsection. The Secretary shall determine such level after considering the views of any interested community, the State agency of the State in which the point is located, and the government or person agreeing to pay the non-Federal share of the cost of the proposed service. The Secretary shall determine such level not later than 6 months after the date on which the Secretary designates such point under paragraph (2).

"(B) Review.—The Secretary shall periodically review the level of air service provided under this subsection and may, based upon such review and consultation with any interested community, any State agency of the State in which the community is located, and any government or person providing the non-Federal share of the compensation for the service, make appropriate adjustments in the level of service.

"(4) Selection of carrier.—After making the determinations required by paragraph (3) with respect to a designated point, the Secretary shall provide notice that applications may be submitted by any air carrier that is willing to provide the level of air service determined under paragraph (3) with respect to such point. In selecting an applicant to provide such service the Secretary shall, among other factors, consider the factors set forth in subsection (b)(3)(A) and shall also consider the views of the government or person paying the non-Federal share of the cost of the service.

"(5) Non-federal share.—Except as provided in paragraph (2)(B), the non-Federal share for compensation required for providing air service under this subsection shall be 50 percent.

"(6) Notice before termination, suspension, or reduction of service.—An air carrier may not terminate, suspend, or reduce air transportation to an eligible point for which compensation is paid under this subsection below the level of such service established by the Secretary under paragraph (3) unless such carrier has given the Secretary, the community affected, and the government or person paying the non-Federal share at least 30 days' notice before such termination, suspension, or reduction.

"(7) Payment of compensation.—The Secretary shall make payments of compensation under this subsection at times and in a manner determined by the Secretary to be appropriate. The Secretary shall continue to pay compensation to an air carrier to provide service to a point designated under this subsection only for so long as such carrier maintains such service and the government or person agreeing to pay the non-Federal share continues to pay such share and only for so long as the Secretary determines it is necessary in order to maintain such service to such point.

"(8) Payment of non-federal share.—The Secretary may require appropriate payment in advance or such other security to assure that the non-Federal payments for air service under this subsection are timely made.

"(e) Fitness.—

"(1) General rule.—Notwithstanding section 416(b) of this title, the Secretary shall prohibit any air carrier from providing service to an eligible point and from providing service to a point designated under subsection (d), unless the Secretary determines that such air carrier—

"(A) is fit, willing, and able to perform such service; and

"(B) that all aircraft which will be used to perform such service and all operations relating to such service will conform to the safety standards established by the Administrator.

"(2) Limitation on compensation.—The Secretary may not pay compensation to any air carrier for providing air service under this section unless the Secretary finds that such carrier is able to provide the air service in a reliable manner.

"(f) Guidelines for Compensation.—The Secretary shall establish guidelines to be used in computing the fair and reasonable amount of compensation required to ensure the continuation of air service under this section. Such guidelines shall provide for a reduction in compensation in any case in which an air carrier fails to perform any agreed upon air service. Such guidelines shall take into account amounts needed by air carriers to promote public use of the service for which compensation is to be made and shall include expense elements based upon representative costs of air carriers providing scheduled air transportation of persons, property, and mail, using aircraft of the type determined by the Secretary to be appropriate for providing such service. Amounts needed for promotion of such service shall be a special, segregated element of the required compensation.

"(g) Deadline for Payment of Compensation.—Not later than 15 days after receiving a written claim for compensation from an air carrier for providing air service under this section, the Secretary shall pay the Federal share of such claim or deny payment of the Federal share of such claim and notify the carrier of such denial and the reasons therefor.

"(h) Insurance.—An air carrier shall not receive compensation under this section unless such air carrier complies with regulations or orders issued by the Secretary governing the filing and approval of policies of insurance or plans for self-insurance in the amount prescribed by the Secretary which are conditioned to pay, within the amount of such insurance, amounts for which such air carrier may become liable for bodily injuries to or the death of any person, or for loss of or damage to property of others, resulting from the operation or maintenance of aircraft.

"(i) Carrier Obligations.—If 2 or more air carriers enter into an agreement to operate under or use a single air carrier designator code to provide air transportation, the air carrier whose code is being used under such agreement shall share responsibility with the other carriers for the quality of service provided under such code to the public by such other carriers.

"(j) Encouragement of Joint Air Service Proposals.—The Secretary shall encourage the submission of joint proposals by 2 or more air carriers for providing air service under this section through arrangements which will maximize service to and from major destinations beyond the hub.

"(k) Definitions.—For purposes of this section—

"(1) Basic essential air service.—The term 'basic essential air service' means scheduled air transportation of persons and cargo to a hub airport (or, in any case in which the nearest hub airport is more than 400 miles and in the case of Alaska, to a small hub or nonhub airport) which has convenient connecting or single-plane air service to a substantial number of destinations beyond such airport. Such transportation shall include, at least, the following elements:

"(A)(i) with respect to a point not in the State of Alaska, 2 daily round trips 6 days per week, with not more than 1 intermediate stop on each flight; or

"(ii) with respect to a point in the State of Alaska, a level of service that is not less than that which existed in calendar year 1976, or 2 round trips per week, whichever is greater, unless otherwise specified under an agreement between the Secretary and the State agency of the State of Alaska, after consultation with the community affected;

"(B) flights at reasonable times taking into account the needs of passengers with connecting flights at such airport and at rates, fares, and charges which are not excessive when compared to the generally prevailing fares of other air carriers for like service between similar pairs of points;

"(C) with respect to a point not in the State of Alaska, service provided in an aircraft with an effective capacity of at least 15 passengers if the average daily enplanements at such point in any calendar year beginning after December 31, 1975, and ending on or before December 31, 1986, exceeded 11 passengers unless—

"(i) requiring such service would require the payment of compensation in a fiscal year under subsection (b)(4) or (b)(6) with respect to such point when no compensation under such subsection would otherwise be paid with respect to such point in such fiscal year; or

"(ii) the community concerned agrees in writing with the Secretary to the use of smaller aircraft to provide service to such point;

"(D) service which accommodates the estimated passenger and cargo traffic at an average load factor of not greater than—

"(i) 50 percent, or

"(ii) in any case in which such service is being provided with aircraft with 15 passenger seats or more, 60 percent,

for each class of traffic taking into account seasonal demands for such service;

"(E) service provided in an aircraft with at least 2 engines and using 2 pilots, unless scheduled air transportation in aircraft with at least 2 engines and using 2 pilots has not been provided with respect to the point on each of 60 consecutive operating days at any time since October 31, 1978; and

"(F) in the case of service which regularly exceeds 8,000 feet in altitude, service provided with pressurized aircraft.

"(2) ENHANCED ESSENTIAL AIR SERVICE.—The term 'enhanced essential air service' means scheduled air transportation to an eligible point of a higher level or quality than basic essential air service.

"(3) HUB AIRPORT.—The term 'hub airport' means an airport that annually has 0.25 percent or more of the total annual enplanements in the United States.

"(4) NONHUB AIRPORT.—The term 'nonhub airport' means an airport that annually has less than 0.05 percent of the total annual enplanements in the United States.

"(5) SMALL HUB AIRPORT.—The term 'small hub airport' means an airport that annually has 0.05 percent or more, but less than 0.25 percent, of the total annual enplanements in the United States.

"(l) DURATION OF PROGRAM.—This section shall not be in effect after September 30, 1998.".

Termination date.

(2) CONFORMING AMENDMENT.—The table of contents contained in the first section of the Federal Aviation Act of 1958 is

amended by striking out the item relating to section 419 and inserting in lieu thereof the following:

"Sec. 419. Small community air service.
  "(a) Eligible point defined.
  "(b) Basic essential air service.
  "(c) Enhanced essential air service.
  "(d) Compensation for service to other small communities.
  "(e) Fitness.
  "(f) Guidelines for compensation.
  "(g) Deadline for payment of compensation.
  "(h) Insurance.
  "(i) Carrier obligations.
  "(j) Encouragement of joint air service proposals.
  "(k) Definitions.
  "(l) Duration of program.".

49 USC app. 1389 note.

(3) Effective date.—The amendments made by this subsection shall take effect October 1, 1988.

49 USC app. 1421 note.

SEC. 203. AIRCRAFT COLLISION AVOIDANCE SYSTEMS.

(a) Findings.—Congress finds that—

(1) the number of near midair collisions is an indication that additional measures must be taken to assure the highest level of air safety in the United States;

(2) public health and safety requirements necessitate the timely completion and installation of a collision avoidance system for use by commercial aircraft flying in the United States;

(3) the Traffic Alert and Collision Avoidance System promises to reduce the threat to life caused by midair collisions, particularly collisions between general aviation aircraft and commercial aircraft;

(4) the Traffic Alert and Collision Avoidance System will succeed only to the degree that other aircraft posing a collision threat use operating transponders with automatic altitude reporting capability; and

(5) the Federal Aviation Administration should continue at a deliberate pace the development of additional technologies, including the collision avoidance system known as TCAS-III, to ensure the safe separation of aircraft.

49 USC app. 1421.

(b) General Rules.—Section 601 is amended by adding at the end the following new subsection:

"(f) Collision Avoidance Systems.—

"(1) Development and certification.—

"(A) Standards.—The Administrator shall complete development of the collision avoidance system known as TCAS-II so that such system will be operable under visual and instrument flight rules and will be upgradable to the performance standards applicable to the collision avoidance system known as TCAS-III.

"(B) Schedule.—The Administrator shall develop and implement a schedule for development and certification of the collision avoidance system known as TCAS-II which will result in completion of such certification not later than 18 months after the date of the enactment of this subsection.

"(C) Monthly reports.—The Administrator shall transmit to Congress monthly reports on the progress being made in development and certification of the collision avoidance system known as TCAS-II.

"(2) INSTALLATION.—The Administrator shall require by regulation that, not later than 30 months after the date of certification of the collision avoidance system known as TCAS-II, such system be installed and operated on each civil aircraft which has a maximum passenger capacity of more than 30 seats and which is used to provide air transportation of passengers, including intrastate air transportation of passengers. Regulations.

"(3) TRANSPONDERS.—Not later than 6 months after the date of the enactment of this subsection, the Administrator shall promulgate a final rule requiring the installation and use of operating transponders with automatic altitude reporting capability for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft. For such terminal airspace, other than Terminal Control Areas and Airport Radar Service Areas, the Administrator may provide for access to such airspace by nonequipped aircraft if the Administrator determines that such access will not interfere with the normal traffic flow. Such final rule shall require the installation and use of such transponders not later than 36 months after the date of the enactment of this subsection.". Regulations.

(c) CONFORMING AMENDMENT.—That portion of table of contents contained in the first section of the Federal Aviation Act of 1958 which appears under the heading

"Sec. 601. General safety powers and duties."

is amended by adding at the end the following:

"(f) Collision avoidance systems.".

(d) COMPLETION OF RESEARCH AND DEVELOPMENT.—

(1) GENERAL RULE.—The Administrator shall complete the research and the development on, and the certification of, the collision avoidance system known as TCAS-III as soon as possible. 49 USC app. 1421 note.

(2) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated such sums as may be necessary from the Airport and Airway Trust Fund to carry out this subsection.

SEC. 204. CIVIL PENALTIES.

(a) FOR HAZARDS TO COMMERCE.—Section 901(a)(1)(A) is amended by striking out "1114," and inserting in lieu thereof "1101 or 1114,". 49 USC app. 1471.

(b) INCREASED PENALTY FOR AIR CARRIERS.—The first sentence of section 901(a)(1) is amended by inserting after "$1,000 for each such violation," the following: "except that a person who operates aircraft for the carriage of persons or property for compensation or hire (other than an airman serving in the capacity of an airman) shall be subject to a civil penalty not to exceed $10,000 for each violation of title III, VI, or XII of this Act, or any rule, regulation, or order issued thereunder, occurring after the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987, and".

(c) CLARIFICATION OF DETERMINATION OF PENALTY.—The second sentence of section 901(a)(1) is amended by inserting ", or each flight with respect to which such violation is committed, if applicable," after "each day of such violation".

(d) COMPROMISE.—Section 901(a)(2) is amended by inserting ", or of section 1101, 1114, or 1115(e)(2)(B)," after "XII".

49 USC app. 1472.

(e) PENALTY FOR INTERFERENCE WITH AIRCRAFT ACCIDENT INVESTIGATIONS.—Section 902(p) is amended by striking out "shall be subject to a fine of no less than $100 nor more than $5,000, or imprisonment for not more than one year, or both" and inserting in lieu thereof "shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both".

(f) SECURED AREAS OF AIRPORTS.—Section 902 is amended—

(1) in subsection (o) by inserting "and subsection (r)" after "inclusive,"; and

(2) by adding at the end thereof the following new subsection:

"(r) SECURED AREAS OF AIRPORTS.—

"(1) VIOLATION.—It shall be unlawful for any person to knowingly and willfully enter an aircraft or an airport area that serves air carriers or foreign air carriers contrary to security requirements established pursuant to section 315 or 316 of this Act.

"(2) GENERAL PENALTY.—Upon conviction of a violation of paragraph (1), a person shall be subject to imprisonment for a term not to exceed 1 year or a fine not to exceed $1,000, or both.

"(3) PENALTY FOR VIOLATIONS IN CONNECTION WITH FELONIES.—If any person violates paragraph (1) of this subsection with the intent to commit in the aircraft or secured area an act punishable as a felony under Federal or State law, such person shall be subject to imprisonment for a term not to exceed 10 years or a fine not to exceed $10,000, or both.".

(g) DEMONSTRATION PROGRAM.—Title IX is amended by adding at the end thereof the following new section:

49 USC app. 1475.

"SEC. 905. CIVIL PENALTY ASSESSMENT DEMONSTRATION PROGRAM.

"(a) CIVIL PENALTY.—The Administrator, or his delegate, may assess a civil penalty for a violation arising under this Act or a rule, regulation, or order issued thereunder, upon written notice and finding of violation by the Administrator.

"(b) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator in accordance with this section, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(c) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subsection (a) of this section, the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator (1) which involves an amount in controversy in excess of $50,000; (2) which is an in rem action or in which an in rem action based on the same violation has been brought; (3) regarding which an aircraft subject to lien has been seized by the United States; and (4) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(d) LIMITATIONS.—

"(1) HEARING.—A civil penalty may be assessed under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(2) VIOLATIONS.—This section only applies to civil penalties initiated by the Administrator after the date of the enactment of this section.

"(3) Maximum amount.—The maximum amount of a civil penalty which may be assessed under this section in any case may not exceed $50,000.

"(4) Effective period.—The provisions of this section shall only be in effect for the 2-year period beginning on the date of the enactment of this section.".

(h) Conforming Amendments.—That portion of the table of contents contained in section 1 of the Federal Aviation Act of 1958 relating to title IX of the Federal Aviation Act of 1958 is amended—

(1) by inserting

"(r) Secured areas of airports."

after

"(q) Transporting controlled substances without airman certificate."; and

(2) by adding at the end thereof the following:

"Sec. 905. Civil penalty assessment demonstration program.".

(i) Effectiveness Reviewed.—

49 USC app. 1475 note.

(1) Study.—The Administrator shall conduct a study on the effectiveness of the amendments made by this section to the Federal Aviation Act of 1958.

(2) Report.—Not later than 18 months after the date of enactment of this section, the Administrator shall transmit to Congress a report on the results of the study conducted under this subsection. The report shall include (A) the Administrator's views concerning the effectiveness of civil penalty levels established by the amendments made by this section and whether additional changes to the civil penalty program conducted under title IX of such Act are necessary to provide an adequate safety deterrence; and (B) the Administrator's recommendation as to the effectiveness of the civil penalty assessment demonstration program authorized by section 905 of the Federal Aviation Act of 1958 and whether it should be continued.

SEC. 205. INDEMNIFICATION OF FEDERAL AVIATION ADMINISTRATION EMPLOYEES.

49 USC app. 1354.

Section 313 is amended by adding at the end thereof the following new subsection:

"(e) Indemnification.—The Administrator is empowered to indemnify any officer or employee of the Federal Aviation Administration against any claim or judgment against such person if such claim or judgment arises out of an act or acts committed, as determined by the Administrator, within the scope of such person's official duties. The Administrator may issue such regulations as may be necessary to implement this subsection.".

SEC. 206. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

49 USC app. 1501.

Section 1101 is amended to read as follows:

"SEC. 1101. HAZARDS TO SAFE AND EFFICIENT AIR COMMERCE AND THE PRESERVATION OF NAVIGABLE AIRSPACE AND AIRPORT TRAFFIC CAPACITY.

"(a) Notice of Construction.—The Secretary of Transportation (hereinafter in this section referred to as the 'Secretary') shall, by rules and regulations, or by order where necessary, require all persons to give adequate public notice, in the form and manner prescribed by the Secretary, of the construction or alteration, or of the proposed construction or alteration, of any structure where notice will promote safety in air commerce as well as the efficient use and preservation of the navigable airspace and of airport traffic capacity at public-use airports.

"(b) AERONAUTICAL STUDIES.—

"(1) REQUIREMENT.—Where the Secretary determines, according to rules and regulations, that the construction or alteration of any structure may constitute an obstruction of navigable airspace or an interference with air navigation facilities and equipment or navigable airspace, the Secretary shall conduct an aeronautical study to determine the extent of the adverse impact, if any, on the safe and efficient use of such airspace, facilities, or equipment.

"(2) FACTORS TO CONSIDER.—When conducting an aeronautical study under this subsection to determine the impact of the construction or alteration of a structure, the Secretary shall thoroughly consider, according to rules and regulations, all factors relevant to the efficient and effective use of the navigable airspace, and shall consider the following:

"(A) The impact on arrival, departure, and en route procedures for aircraft operating under visual flight rules.

"(B) The impact on arrival, departure, and en route procedures for aircraft operating under instrument flight rules.

"(C) The impact on all existing public-use airports and aeronautical facilities.

"(D) The impact on all planned public-use airports and aeronautical facilities.

"(E) The cumulative impact resulting from the proposed construction or alteration of a structure when combined with the impact of other existing or proposed structures.

"(3) REPORT.—Upon completion of an aeronautical study under this subsection, the Secretary shall issue a report fully disclosing the extent of the adverse impact on the safe and efficient use of the navigable airspace which the Secretary determines will result from the construction or alteration of a structure.

Communications and telecommunications.

"(c) COORDINATION.—In the administration of laws relating to broadcast applications and the conduct of aeronautical studies relating to broadcast towers, the Federal Communications Commission and the Federal Aviation Administration shall take such action as may be necessary to efficiently coordinate the receipt, consideration of, and action upon such applications and the completion of associated aeronautical studies.".

(b) CONFORMING AMENDMENT.—That portion of table of contents contained in the first section of the Federal Aviation Act of 1958 is amended by striking out

"Sec. 1101. Hazards to air commerce."

and inserting in lieu thereof

"Sec. 1101. Hazards to safe and efficient air commerce and the preservation of navigable airspace and airport traffic capacity.".

SEC. 207. PUBLIC AIRCRAFT DEFINED.

49 USC app. 1301.

Section 101(36) is amended by adding at the end thereof the following new sentence: "For purposes of this paragraph, 'used exclusively in the service of' means, for other than the Federal Government, an aircraft which is owned and operated by a governmental entity for other than commercial purposes or which is exclusively leased by such governmental entity for not less than 90 continuous days.".

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. NOISE ABATEMENT.

State and local governments.

(a) Notice and Hearing Requirement.—The first sentence of section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(a)) is amended by inserting after "any air carriers using such airport" the following: "and after notice and an opportunity for a public hearing".

(b) Federal Share.—Section 104(c)(1) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)(1)) is amended by inserting before the period at the end of the fourth sentence the following: "or the Federal share which would be applicable to such project if the funds made available for such project were being made available under the Airport and Airway Improvement Act of 1982 for a project at the airport, whichever percentage is greater".

(c) Soundproofing of Schools and Hospitals.—Section 104(c) of the Aviation Safety and Noise Abatement Act of 1979 (49 U.S.C. App. 2104(c)) is amended by adding at the end thereof the following new paragraph:

Grants.

"(3) The Secretary is authorized under this section to make grants to operators of airports and to units of local government referred to in paragraph (1) for any project to soundproof any public building (A) which is used primarily for educational or medical purposes in the noise impact area surrounding such airport, and (B) which is determined to be adversely affected by airport noise.".

49 USC app. 2104 note.

(d) Procedures for Preparation and Submission of Noise Compatibility Programs.—

(1) Study.—The Secretary shall conduct a study of the procedures established under the Aviation Safety and Noise Abatement Act of 1979 for the preparation and submission of noise compatibility programs. The objectives of such study shall be to determine whether or not such procedures could be revised to provide a more simplified process which meet the objectives of such Act and to determine whether or not expedited and simplified procedures which meet the objectives of such Act could be developed to take into account special circumstances at certain airports.

(2) Consultation requirement.—In undertaking the study under this subsection, the Secretary shall consult airports, airport users (including air carriers), representatives of persons residing in areas surrounding airports, concerned Federal, State, and local officials, and other interested persons.

(3) Report.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1) together with recommendations.

Grants.

(4) Funding during study.—

(A) Congressional intent.—It is the intention of Congress that the authority of the Secretary to make grants under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 to airport operators and units of local government to implement noise compatibility programs that were developed prior to the promulgation of implementing regulations under such Act if the Secretary determines that such programs would further the purposes of such Act shall continue until such programs are fully implemented but not later than the last day of the 18-month period beginning on the date of the enactment of this Act, notwithstanding any other provision of law and any rule or regulation promulgated pursuant to any other provision of law.

(B) Continuation.—In order to carry out the intent specified in subparagraph (A), grants may continue to be made under section 104(c)(2) of the Aviation Safety and Noise Abatement Act of 1979 for noise compatibility programs or projects previously approved under such program during the 18-month period beginning on the date of the enactment of this Act, if—

(i) the operator of the airport involved submits updated noise exposure contours, as required by the Secretary; and

(ii) the Secretary determines that such programs or projects are compatible with the purposes of such Act.

(e) Existing Noise Abatement Proposals.—

(1) Review.—The Administrator shall conduct a study of noise abatement proposals under consideration by airport operators and local governments for the purpose of identifying those proposals which, under existing law or administrative policy, are not currently eligible for Federal assistance and determining whether or not such proposals should be made eligible for Federal assistance.

(2) Report.—Not later than 180 days after the date of the enactment of this Act, the Administrator shall transmit to Congress a report on the results of the study conducted under paragraph (1), together with recommendations concerning modifications in existing law and administrative policy for making additional noise abatement proposals eligible for Federal assistance.

49 USC app. 1348 note.

SEC. 302. AIR TRAFFIC CONTROLLER WORKFORCE.

(a) Minimum Number of Air Traffic Controllers.—The Administrator shall hire such additional persons as are necessary to make the number of persons employed in the air traffic control workforce on September 30, 1988, not less than 15,900.

(b) Air Traffic Control Workforce Defined.—For purposes of this section, the term "air traffic control workforce" means persons employed by the Federal Aviation Administration (including persons employed as traffic management coordinators and air traffic control first line supervisors) a substantial part of whose duties include separating and controlling air traffic. Such term does not include any air traffic assistant and any student at an air traffic control academy.

SEC. 303. SAFETY RULEMAKING PROCEEDINGS.

49 USC app. 1421 note.

(a) Floatation Equipment.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider requiring (1) adequate, uniform life preservers, life rafts, and floatation devices for passengers, including small children and infants, on any flight of an air carrier which the Secretary determines a part of which flight will occur over water, and (2) adequate information and instructions as to the use of such preservers, rafts, and floatation devices.

(b) Improved Crashworthiness Standards for Aircraft Seats.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider requiring all seats on board all air carrier aircraft to meet improved crashworthiness standards based upon the best available testing standards for crashworthiness.

(c) Cockpit Voice Recorders and Flight Data Recorders.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding to consider the use of cockpit voice recorders and flight data recorders on commuter aircraft and other aircraft, commensurate with the recommendations of the National Transportation Safety Board.

(d) Monthly Status Reports.—The Secretary shall transmit to Congress monthly status reports on the rulemaking proceedings being conducted under subsections (a), (b), and (c) of this section.

(e) Aircraft Design and Equipment.—

(1) Study.—The Secretary shall conduct a study pertaining to aircraft design and equipment which minimize the incidence of fire or explosion, including fuel tanks (including crash resistant inner fuel tanks and breakaway, self-closing fittings throughout the fuel system).

(2) Report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this subsection, together with recommendations.

(f) Report on Modernization Recommendations.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report to Congress on specific regulations the Secretary has adopted or intends to adopt to modernize and improve the oversight and inspection of air carrier maintenance and safety-related procedures.

SEC. 304. INFLATION ADJUSTMENT ON COLLECTION OF CERTAIN AVIATION FEES.

Section 334 of title 49, United States Code, is amended by inserting before the period at the end of the first sentence the following: ", adjusted in proportion to changes in the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed".

SEC. 305. AMENDMENTS TO THE NATIONAL DRIVER REGISTER ACT.

(a) Expansion of Coverage.—Section 206(a)(1) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended by striking out "highway" and inserting in lieu thereof "transportation".

23 USC 401 note. (b) APPLICANTS FOR AIRMEN'S CERTIFICATES.—Section 206(b) of such Act is amended—

(1) by redesignating paragraphs (3) and (4), and any reference thereto, as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Any individual who has applied for or received an airman's certificate may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to the Administrator of the Federal Aviation Administration. The Administrator of the Federal Aviation Administration may receive such information and shall make such information available to the individual for review and written comment. The Administrator shall not otherwise divulge or use such information, except to verify information required to be reported to the Administrator by an airman applying for an airman medical certificate and to evaluate whether the airman meets the minimum standards as prescribed by the Administrator to be issued an airman medical certificate. There shall be no access to information in the Register under this paragraph if such information was entered in the Register more than 3 years before the date of such request, unless such information relates to revocations or suspensions which are still in effect on the date of the request. Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), or under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

(c) CONFORMING AMENDMENTS.—Section 206(b) of such Act is further amended by adding at the end of each of paragraphs (1), (2), and (4) (as redesignated by subsection (b) of this section) the following new sentence: "Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), and under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

SEC. 306. LOW ACTIVITY LEVEL I AIR TRAFFIC CONTROL TOWER CONTRACT PROGRAM.

The Secretary shall continue in effect the low activity (VFR) Level I air traffic control tower contract program established under section 526 of the Airport and Airway Improvement Act of 1982 with respect to existing contract towers and shall extend such program to other towers as practicable.

Contracts.

SEC. 307. ELIGIBILITY OF DERMOTT, ARKANSAS, MUNICIPAL AIRPORT.

In the administration of the provisions of the Airport and Airway Improvement Act of 1982, the municipal airport of the city of Dermott, Arkansas, shall not be denied eligibility for assistance under such Act on the basis that such airport is located on leased land, if such lease is for a period of at least 99 years, and if the land so leased consists of at least 25 acres.

Regulations.
49 USC app. 1348 note.

SEC. 308. STANDARDS FOR NAVIGATIONAL AIDS.

Not later than December 31, 1988, the Secretary shall promulgate regulations to establish criteria for the installation of airport control towers and other navigational aids. For each type of facility, the regulations shall, at a minimum, consider traffic density (number of aircraft operations without consideration of aircraft size), terrain and other obstacles to navigation, weather characteristics, passengers served, and potential aircraft operating efficiencies.

SEC. 309. LONG-TERM AIRPORT CAPACITY NEEDS.

49 USC app. 2203 note.

(a) Study.—The Secretary shall conduct a study for the purpose of developing an overall airport system plan through the year 2010 which will assure the long-term availability of adequate airport system capacity.

(b) Reports.—

(1) Preliminary report.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a preliminary report on the status of the plan being developed under subsection (a).

(2) Final report.—Not later than January 1, 1990, the Secretary shall transmit to Congress a final report on the results of the study conducted under subsection (a), together with the plan developed under such subsection.

(c) Funding.—There shall be available to the Secretary from the Airport and Airway Trust Fund $250,000 per fiscal year for each of fiscal years 1988 and 1989 for carrying out this section. Such funds shall remain available until expended.

SEC. 310. RADIO NAVIGATION SYSTEMS.

49 USC app. 1348 note.

(a) Synchronization.—

(1) Loran-c master transmitters.—Not later than September 30, 1989, the Secretary shall take such action as may be necessary to synchronize all loran-C master transmitters located in the United States and all loran-C master transmitters subject to the jurisdiction of the United States. Each such master transmitter shall be synchronized to within approximately 100 nanoseconds of universal time.

(2) Other loran-c transmitters.—

(A) Impact study.—The Secretary shall conduct a study of the impact on users of loran-C transmitted signals of synchronizing time of signal transmissions among all secondary loran-C transmitters in the United States in accordance with the standard set forth in the second sentence of paragraph (1).

(B) Report.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under subparagraph (A).

(3) Authorization.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $750,000 for fiscal year 1988 and $500,000 for fiscal year 1989. Such funds shall remain available until expended.

(b) Interoperability of Radio Navigation Systems.—

(1) Study.—The Secretary shall study and evaluate methods of coordinating the time references of the loran-C transmitter system and the global positioning satellite system to within approximately 30 nanoseconds of each other for the purpose of making possible the interchange of positioning data between the 2 systems.

(2) REPORT.—Not later than September 30, 1989, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

(3) AUTHORIZATION.—There shall be available for carrying out this subsection from the Airport and Airway Trust Fund $500,000 for fiscal year 1988. Such funds shall remain available until expended.

Regulations.

(c) DEVELOPMENT OF MINIMUM STANDARDS.—Not later than September 30, 1989, the Administrator shall establish by regulation minimum standards under which a radio navigation system may be certified as the sole radio navigation system required in an aircraft for operation in airspace of the United States.

SEC. 311. REPORTING OF ACCIDENTS TO NTSB.

(a) GENERAL RULE.—Section 304(a)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(6)) is amended to read as follows:

Regulations.

"(6) establish by regulation requirements binding on persons reporting (A) accidents and aviation incidents subject to the Board's investigatory jurisdiction under this subsection, and (B) accidents and aviation incidents involving public aircraft other than aircraft of the Armed Forces and the Intelligence Agencies;".

49 USC app. 1903 note.

(b) REPORT TO CONGRESS.—Not later than 18 months after the date of the enactment of this Act, the National Transportation Safety Board shall report to the Congress its findings on public aircraft accidents and incidents.

New Jersey.

SEC. 312. ATLANTIC CITY AIRPORT.

(a) LIMITATION ON FUNDING OR TRANSFERS OF PROPERTY.—Notwithstanding any other provision of law, with regard to the Atlantic City Airport, at Pomona, New Jersey, the Federal Aviation Administration shall not convey any interest in property (pursuant to section 516 of the Airport and Airway Improvement Act of 1982) to any municipality or any other entity operating such airport, nor shall any funds authorized to be appropriated for fiscal year 1987 by such Act be available to such municipality or entity for any planning, study, design, engineering, or construction of a runway extension, new runway, new passenger terminal, or improvements to or expansion of the existing passenger terminal at such airport, until such time as—

(1) the master plan update for Atlantic City Airport and Bader Field, prepared pursuant to Federal Aviation Administration Contract FA-EA-2656, is completed and released; and

(2) the Administrator finds that a public entity has been created to operate and manage the Atlantic City Airport, which entity has the following characteristics:

Contracts.

(A) the authority to enter into contracts and other agreements, including contracts, leases, cooperative agreements, or other transactions with any agency or instrumentality of the United States;

(B) the standing to sue and be sued in its own name;

(C) the authority to hire and dismiss officers and employees;

(D) the power to adopt, amend, and repeal bylaws, rules, and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised;

Real property.

(E) the authority to acquire, in its own name, an interest in such real or personal property as is necessary or appropriate for the operation and maintenance of the airport;

(F) the power to acquire property by the exercise of the right of eminent domain;

Securities.

(G) the power to borrow money by issuing marketable obligations, or such other means as is permissible for public authorities under the laws of the State of New Jersey;

(H) adequate financial resources to carry out all activities which are ordinarily necessary and appropriate to operate and maintain an airport;

(I) a governing board which includes (but need not be limited to) voting representatives of the city of Atlantic City, the county of Atlantic, and the municipalities which are adjacent to or are directly impacted by the airport;

(J) a charter which includes (i) a requirement that members of the governing board have expertise in transportation, finance, law, public administration, aviation, or such other qualifications as would be appropriate to oversee the planning, management, and operation of an airport, and (ii) procedures which protect the research and development mission of the Federal Aviation Technical Center at Pomona, New Jersey, and the defense functions of the Air National Guard; and

(K) the authority to carry out comprehensive transportation planning to minimize the traffic congestion and facilitate access to and from the airport.

(b) SAFETY FUNDS NOT SUBJECT TO LIMITATION.—The limitation on funds set forth in subsection (a) shall not apply to any expenditure which the Administrator determines is needed for safety purposes.

(c) AVAILABILITY OF RESTRICTED FUNDS.—Notwithstanding any other provision of law, the funds restricted under subsection (a) shall become available at such time as the conditions set forth in subsection (a) are satisfied.

Real property.
State and local governments.

SEC. 313. RELEASE OF CERTAIN CONDITIONS.

(a) STAPLETON INTERNATIONAL AIRPORT, DENVER, COLORADO.—

(1) AUTHORITY TO GRANT RELEASE.—Notwithstanding section 16 of the Federal Airport Act (as in effect on the date of each conveyance referred to in this subsection) with respect to such conveyance, the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant release—

(A) from any of the terms, conditions, reservations, and restrictions contained in each deed of conveyance under which the United States conveyed property to the city and county of Denver, Colorado, on which any portion of Stapleton International Airport is located; and

(B) from any assurance made by the sponsor of such airport for a grant under the Airport and Airway Improvement Act of 1982 for a project at such airport.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The city and county of Denver, Colorado, shall agree that in conveying any interest in the property which the United States conveyed to the city and county by the deeds described in paragraph (1) the city and county will receive an amount for such interest which is equal to the fair market value (as determined pursuant to regulations issued by the Secretary).

(B) Any such amount so received by the city and county shall be used by the city and county for the development, construction, and improvement of (i) a new Denver air carrier airport, and (ii) a reliever airport in the event that the operation of the new air carrier airport severely restricts the operation of the nearby reliever airport. In no event shall such amount be used for operation or maintenance of such airports.

(C) The city and county shall agree not to convey any interest in the property which the United States conveyed to the city and county by the deeds described in paragraph (1) until the opening and initial operation of a primary airport to replace Stapleton International Airport, unless the Secretary determines that any such property is not essential for the operation of Stapleton International Airport.

(b) HAWAII.—

(1) AUTHORITY TO GRANT RELEASE.—Notwithstanding section 23 of the Airport and Airway Development Act of 1970 (as in effect on April 6, 1982), the Secretary is authorized, subject to the provisions of section 4 of the Act of October 1, 1949 (63 Stat. 700; 50 U.S.C. App. 1622c), and the provisions of paragraph (2) of this subsection, to grant releases from any of the terms, conditions, reservations, and restrictions contained in the deed of conveyance, dated April 6, 1982, under which the United States conveyed certain property to the State of Hawaii for airport purposes.

(2) CONDITIONS.—Any release granted by the Secretary under paragraph (1) of this subsection shall be subject to the following conditions:

(A) The property for which a release is granted under this subsection shall not exceed 2.280 acres.

(B) The State of Hawaii shall agree that, in conveying any interest in the property which the United States conveyed to the State by a deed described in paragraph (1), the State will receive an amount for such interest which is equal to the fair market value.

(C) Any amount so received shall be used for airport purposes only.

(D) In the event land or any interest therein is received in exchange for all or part of the 2.280 acres, the deed of conveyance of such land or interest will contain language mandating that—

(i) the land or interest must be used for airport purposes only;

(ii) such land or interest in land received by the State of Hawaii may not be conveyed by the State, except by approval of the Federal Government, pursuant to the authority vested in the Secretary under section 4 of the Act of 1949 (63 Stat. 700; 50 U.S.C. App. 1622c);

(iii) such conveyance by the State of Hawaii shall be subject to receipt of fair market value; and

(iv) the proceeds from such conveyance by the State of Hawaii shall be used for airport purposes only.

(c) Laredo International Airport, Laredo, Texas.—

(1) Authority to grant release.—Subject to paragraph (2), in recognition of the benefits to the public, the city of Laredo, Texas, and its successors and assigns are hereby released from all terms, conditions, reservations, and restrictions contained in the instrument of disposal dated February 21, 1975, by which the United States conveyed the property on which the Laredo International Airport, Laredo, Texas, is located to such city to the extent that such terms, conditions, reservations, and restrictions apply to the portion of such property consisting of approximately 680.1586 acres of land which is designated under the 1985 master plan and land use plan for the Laredo International Airport as being available for nonaviation purposes.

(2) Conditions.—The release granted by paragraph (1) shall be subject to the following conditions:

(A) All revenues derived from the property to which such release applies shall be used for development, improvement, operation, and maintenance of the Laredo International Airport.

(B) The use of property to which such release applies shall not interfere with the operation and maintenance of such airport.

(C) Property to which such release applies may only be rented or leased if the term of the rental or lease agreement is 20 years or less and if compensation which is not less than—

(i) ¼ of fair market value is received in the case of a rental or lease agreement for a term of 10 years or less; and

(ii) ½ of fair market value is received in the case of a rental or lease agreement for a term of more than 10 years.

(D) Property to which such release applies may only be transferred if compensation which is equal to or more than fair market value is received.

(E) The city of Laredo, Texas, shall provide to the Administrator—

(i) an accounting and management plan acceptable to the Administrator for managing the Laredo International Airport general fund; and

(ii) an explanation of the management by such city of such general fund in calendar years beginning after December 31, 1977, and ending before the date of the enactment of this Act.

(3) Implementation.—The Administrator shall take such action as may be necessary to carry out the provisions of this subsection.

SEC. 314. FLIGHT SERVICE STATION IN JUNEAU, ALASKA.

(a) Designation.—The Federal Aviation Administration flight service station located in Juneau, Alaska, shall be known and designated as the "Dave Scheytt Flight Service Station".

(b) Legal Reference.—Any reference in a law, map, regulation, document, or other paper of the United States to the flight service station referred to in subsection (a) shall be deemed to be a reference to the "Dave Scheytt Flight Service Station".

SEC. 315. GRAND CANYON AIRPORT.

(a) Study.—The Secretary shall conduct a study of methods of air traffic control which might be utilized at the Grand Canyon Airport, including the feasibility of installing radar for air traffic control purposes.

(b) Report.—Not later than the 180th day following the date of the enactment of this Act, the Secretary shall report to Congress the results of the study conducted under subsection (a), together with recommendations.

Airport and Airway Revenue Act of 1987.

TITLE IV—EXTENSION OF AVIATION-RELATED TAXES AND AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY

26 USC 1 note.

SEC. 401. SHORT TITLE.

This title may be cited as the "Airport and Airway Revenue Act of 1987".

SEC. 402. 3-YEAR EXTENSION OF AVIATION-RELATED TAXES.

(a) In General.—The following provisions of the Internal Revenue Code of 1986 are each amended by striking out "January 1, 1988" each place it appears and inserting in lieu thereof "January 1, 1991":

(1) Section 4261(f) (relating to transportation of persons by air).

(2) Section 4271(d) (relating to transportation of property by air).

(3) Section 9502(b) (relating to transfer to Airport and Airway Trust Fund of amounts equivalent to certain taxes).

(b) Fuel Used in Noncommercial Aviation.—Paragraph (5) of section 4041(c) of such Code (relating to noncommercial aviation) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1990".

SEC. 403. EXTENSION OF AIRPORT AND AIRWAY TRUST FUND SPENDING AUTHORITY.

(a) Expenditures From Trust Fund.—The material preceding subparagraph (A) of paragraph (1) of section 9502(d) of the Internal Revenue Code of 1986 (relating to expenditures from Airport and Airway Trust Fund) is amended by striking out "October 1, 1987" and inserting in lieu thereof "October 1, 1992".

(b) Trust Fund Purposes.—Subparagraph (A) of section 9502(d)(1) of such Code is amended by striking out "(as such Acts were in effect on the date of the enactment of the Surface Transportation Assistance Act of 1982)" and inserting in lieu thereof "or the Airport and Airway Safety and Capacity Expansion Act of 1987 (as such Acts were in effect on the date of the enactment of the Airport and Airway Safety and Capacity Expansion Act of 1987)".

SEC. 404. EXEMPTION FOR CERTAIN EMERGENCY MEDICAL TRANSPORTATION BY HELICOPTER.

(a) In General.—Section 4261 of the Internal Revenue Code of 1986 (relating to imposition of tax on transportation by air) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection: 26 USC 4261.

"(f) Exemption for Certain Emergency Medical Transportation.—No tax shall be imposed under this section or section 4271 on any air transportation by helicopter for the purpose of providing emergency medical services if such helicopter—

"(1) does not take off from, or land at, a facility eligible for assistance under the Airport and Airway Development Act of 1970 during such transportation, and

"(2) does not otherwise use services provided pursuant to the Airport and Airway Improvement Act of 1982 during such transportation."

(b) Tax Free Sales.—Subsection (l) of section 4041 of such Code (relating to exemption for certain helicopter uses) is amended to read as follows:

"(l) Exemption for Certain Helicopter Uses.—No tax shall be imposed under this section on any liquid sold for use in, or used in, a helicopter for purposes of providing transportation with respect to which the requirements of subsection (e) or (f) of section 4261 are met."

(c) Technical Amendment.—Subsection (e) of section 4261 of such Code is amended by striking out "System Improvement Act" and inserting in lieu thereof "Improvement Act".

(d) Effective Dates.—

(1) Subsection (a).—The amendment made by subsection (a) shall apply to transportation beginning after September 30, 1988, but shall not apply to amounts paid on or before such date. 26 USC 4261 note.

(2) Subsection (b).—The amendment made by subsection (b) shall take effect on October 1, 1988. 26 USC 4041 note.

SEC. 405. REDUCTION IN AVIATION-RELATED TAXES WHERE APPROPRIATIONS ARE SIGNIFICANTLY BELOW AUTHORIZATIONS.

(a) In General.—Part III of subchapter C of chapter 33 of the Internal Revenue Code of 1986 (relating to facilities and services) is amended by adding at the end the following new section:

"SEC. 4283. REDUCTION IN AVIATION-RELATED TAXES IN CERTAIN CASES. 26 USC 4283.

"(a) Reduction in Rates.—If the funding percentage is less than 85 percent, with respect to any taxable event occurring during 1990—

"(1) subsections (a) and (b) of section 4261 (relating to tax on transportation of persons by air) shall each be applied by substituting '4 percent' for '8 percent',

"(2) subsection (a) of section 4271 (relating to tax on transportation of property by air) shall be applied by substituting '2.5 percent' for '5 percent',

"(3) paragraph (1) of section 4041(c) (relating to tax on certain fuels used in noncommercial aviation) shall be applied by substituting '7 cents' for '14 cents', and

"(4) paragraph (2) of section 4041(c) (relating to tax on gasoline used in noncommercial aviation) shall not apply.

"(b) Funding Percentage.—

"(1) In general.—For purposes of this section, the funding percentage is the percentage (determined by the Secretary) which—

"(A) the sum of—

"(i) the aggregate amounts obligated under section 505 of the Airport and Airway Improvement Act of 1982 for fiscal years 1988 and 1989, and

"(ii) the aggregate amounts appropriated under subsections (a) and (b) of section 506 of such Act for such fiscal years, is of

"(B) the sum of—

"(i) the aggregate amounts authorized to be obligated under such section 505 for such fiscal years, and

"(ii) the aggregate amounts authorized to be appropriated under subsections (a) and (b) of such section 506 for such fiscal years.

"(2) Rules for applying paragraph (1).—

"(A) Treatment of prior year amounts.—For purposes of paragraph (1), an amount shall be treated as authorized, obligated, or appropriated only for the 1st fiscal year for which it is authorized, obligated, or appropriated, as the case may be.

"(B) Treatment of sequestered amounts.—The determination under paragraph (1)(A) shall be made without regard to the sequestration of any amount described therein pursuant to an order under part C of title II of the Balanced Budget and Emergency Deficit Control Act of 1985 (or any successor law).

"(3) Determination of funding percentage.—

"(A) In general.—Not later than December 1, 1989, the Secretary shall determine—

"(i) the funding percentage, and

"(ii) whether the rate reductions under this section shall apply to taxable events occurring during 1990.

"(B) Determinations to be published in federal register.—As soon as practicable after making the determinations under subparagraph (A), the Secretary shall publish such determinations in the Federal Register.

"(c) Taxable Event.—For purposes of this section—

"(1) Taxable transportation by air.—In the case of the taxes imposed by sections 4261 and 4271, the taxable event shall be treated as occurring when the payment for the taxable transportation is made.

"(2) Sale or use of fuel.—In the case of the taxes imposed by section 4041(c), the taxable event shall be the sale or use on which tax is imposed."

(b) Refund of Fuel Taxes on Noncommercial Aviation Where Rate Reduction in Effect.—

(1) In general.—Section 6427 of such Code (relating to fuels not used for taxable purposes) is amended by redesignating subsection (p) as subsection (q) and by inserting after subsection (o) the following new subsection:

"(p) Gasoline Used in Noncommercial Aviation During Period Rate Reduction in Effect.—Except as provided in subsection (k), if—

"(1) any tax is imposed by section 4081 on any gasoline, "(2) such gasoline is used during 1990 as a fuel in any aircraft in noncommercial aviation (as defined in section 4041(c)(4)), and

"(3) no tax is imposed by section 4041(c)(2) on taxable events occurring during 1990 by reason of section 4283,

the Secretary shall pay (without interest) to the ultimate purchaser of such gasoline an amount equal to the excess of the aggregate amount of tax paid under section 4081 on the gasoline so used over an amount equal to 6 cents multiplied by the number of gallons of gasoline so used."

(2) TECHNICAL AMENDMENTS.—

(A) Paragraph (1) of section 6427(i) of such Code is amended by striking out "or (h)" and inserting in lieu thereof "(h), or (p)".

(B) Clause (i) of section 6427(i)(2)(A) of such Code is amended by striking out "and (h)" and inserting in lieu thereof "(h), and (p)".

(3) CROSS REFERENCE.—Subsection (c) of section 4041 of such Code is amended by adding at the end thereof the following new paragraph:

"(6) REDUCTION IN RATES OF TAX IN CERTAIN CIRCUMSTANCES.—For reduction of rates of taxes imposed by paragraphs (1) and (2) in certain circumstances, see section 4283."

(c) CLERICAL AMENDMENT.—The table of sections for part III of subchapter C of chapter 33 of such Code is amended by adding at the end the following new item:

"Sec. 4283. Reduction in aviation-related taxes in certain cases."

Approved December 30, 1987.

LEGISLATIVE HISTORY—H.R. 2310 (S. 1184):

HOUSE REPORTS: No. 100-123, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Public Works and Transportation) and No. 100-484 (Comm. of Conference).

SENATE REPORTS: No. 100-99 accompanying S. 1184 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 133 (1987):

Oct. 1, considered and passed House.
Oct. 28, considered and passed Senate, amended, in lieu of S. 1184.
Dec. 17, Senate agreed to conference report.
Dec. 18, House agreed to conference report.

PUBLIC LAW 100-235—JAN. 8, 1988

COMPUTER SECURITY ACT OF 1987

Public Law 100-235
100th Congress

An Act

Jan. 8, 1988
[H.R. 145]

To provide for a computer standards program within the National Bureau of Standards, to provide for Government-wide computer security, and to provide for the training in security matters of persons who are involved in the management, operation, and use of Federal computer systems, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Computer Security Act of 1987.
Classified information.
40 USC 759 note.
40 USC 759 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Security Act of 1987".

SEC. 2. PURPOSE.

(a) In General.—The Congress declares that improving the security and privacy of sensitive information in Federal computer systems is in the public interest, and hereby creates a means for establishing minimum acceptable security practices for such systems, without limiting the scope of security measures already planned or in use.

(b) Specific Purposes.—The purposes of this Act are—

(1) by amending the Act of March 3, 1901, to assign to the National Bureau of Standards responsibility for developing standards and guidelines for Federal computer systems, including responsibility for developing standards and guidelines needed to assure the cost-effective security and privacy of sensitive information in Federal computer systems, drawing on the technical advice and assistance (including work products) of the National Security Agency, where appropriate;

(2) to provide for promulgation of such standards and guidelines by amending section 111(d) of the Federal Property and Administrative Services Act of 1949;

(3) to require establishment of security plans by all operators of Federal computer systems that contain sensitive information; and

(4) to require mandatory periodic training for all persons involved in management, use, or operation of Federal computer systems that contain sensitive information.

SEC. 3. ESTABLISHMENT OF COMPUTER STANDARDS PROGRAM.

The Act of March 3, 1901 (15 U.S.C. 271-278h), is amended—

15 USC 272.

(1) in section 2(f), by striking out "and" at the end of paragraph (18), by striking out the period at the end of paragraph (19) and inserting in lieu thereof: "; and", and by inserting after such paragraph the following:

"(20) the study of computer systems (as that term is defined in section 20(d) of this Act) and their use to control machinery and processes.";

15 USC 278h.

(2) by redesignating section 20 as section 22, and by inserting after section 19 the following new sections:

15 USC 278g-3.

"Sec. 20. (a) The National Bureau of Standards shall—

"(1) have the mission of developing standards, guidelines, and associated methods and techniques for computer systems;

"(2) except as described in paragraph (3) of this subsection (relating to security standards), develop uniform standards and guidelines for Federal computer systems, except those systems excluded by section 2315 of title 10, United States Code, or section 3502(2) of title 44, United States Code;

"(3) have responsibility within the Federal Government for developing technical, management, physical, and administrative standards and guidelines for the cost-effective security and privacy of sensitive information in Federal computer systems except—

"(A) those systems excluded by section 2315 of title 10, United States Code, or section 3502(2) of title 44, United States Code; and

"(B) those systems which are protected at all times by procedures established for information which has been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy,

the primary purpose of which standards and guidelines shall be to control loss and unauthorized modification or disclosure of sensitive information in such systems and to prevent computer-related fraud and misuse;

"(4) submit standards and guidelines developed pursuant to paragraphs (2) and (3) of this subsection, along with recommendations as to the extent to which these should be made compulsory and binding, to the Secretary of Commerce for promulgation under section 111(d) of the Federal Property and Administrative Services Act of 1949;

"(5) develop guidelines for use by operators of Federal computer systems that contain sensitive information in training their employees in security awareness and accepted security practice, as required by section 5 of the Computer Security Act of 1987; and

"(6) develop validation procedures for, and evaluate the effectiveness of, standards and guidelines developed pursuant to paragraphs (1), (2), and (3) of this subsection through research and liaison with other government and private agencies.

"(b) In fulfilling subsection (a) of this section, the National Bureau of Standards is authorized—

"(1) to assist the private sector, upon request, in using and applying the results of the programs and activities under this section;

"(2) to make recommendations, as appropriate, to the Administrator of General Services on policies and regulations proposed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949;

"(3) as requested, to provide to operators of Federal computer systems technical assistance in implementing the standards and guidelines promulgated pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949;

"(4) to assist, as appropriate, the Office of Personnel Management in developing regulations pertaining to training, as required by section 5 of the Computer Security Act of 1987;

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"(5) to perform research and to conduct studies, as needed, to determine the nature and extent of the vulnerabilities of, and to devise techniques for the cost-effective security and privacy of sensitive information in Federal computer systems; and

"(6) to coordinate closely with other agencies and offices (including, but not limited to, the Departments of Defense and Energy, the National Security Agency, the General Accounting Office, the Office of Technology Assessment, and the Office of Management and Budget)—

"(A) to assure maximum use of all existing and planned programs, materials, studies, and reports relating to computer systems security and privacy, in order to avoid unnecessary and costly duplication of effort; and

"(B) to assure, to the maximum extent feasible, that standards developed pursuant to subsection (a) (3) and (5) are consistent and compatible with standards and procedures developed for the protection of information in Federal computer systems which is authorized under criteria established by Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy.

"(c) For the purposes of—

"(1) developing standards and guidelines for the protection of sensitive information in Federal computer systems under subsections (a)(1) and (a)(3), and

"(2) performing research and conducting studies under subsection (b)(5),

the National Bureau of Standards shall draw upon computer system technical security guidelines developed by the National Security Agency to the extent that the National Bureau of Standards determines that such guidelines are consistent with the requirements for protecting sensitive information in Federal computer systems.

"(d) As used in this section—

"(1) the term 'computer system'—

"(A) means any equipment or interconnected system or subsystems of equipment that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception, of data or information; and

"(B) includes—

"(i) computers;

"(ii) ancillary equipment;

"(iii) software, firmware, and similar procedures;

"(iv) services, including support services; and

"(v) related resources as defined by regulations issued by the Administrator for General Services pursuant to section 111 of the Federal Property and Administrative Services Act of 1949;

"(2) the term 'Federal computer system'—

"(A) means a computer system operated by a Federal agency or by a contractor of a Federal agency or other organization that processes information (using a computer system) on behalf of the Federal Government to accomplish a Federal function; and

"(B) includes automatic data processing equipment as that term is defined in section 111(a)(2) of the Federal Property and Administrative Services Act of 1949;

"(3) the term 'operator of a Federal computer system' means a Federal agency, contractor of a Federal agency, or other organization that processes information using a computer system on behalf of the Federal Government to accomplish a Federal function;

"(4) the term 'sensitive information' means any information, the loss, misuse, or unauthorized access to or modification of which could adversely affect the national interest or the conduct of Federal programs, or the privacy to which individuals are entitled under section 552a of title 5, United States Code (the Privacy Act), but which has not been specifically authorized under criteria established by an Executive order or an Act of Congress to be kept secret in the interest of national defense or foreign policy; and

"(5) the term 'Federal agency' has the meaning given such term by section 3(b) of the Federal Property and Administrative Services Act of 1949.

15 USC 278g-4.

"SEC. 21. (a) There is hereby established a Computer System Security and Privacy Advisory Board within the Department of Commerce. The Secretary of Commerce shall appoint the chairman of the Board. The Board shall be composed of twelve additional members appointed by the Secretary of Commerce as follows:

"(1) four members from outside the Federal Government who are eminent in the computer or telecommunications industry, at least one of whom is representative of small or medium sized companies in such industries;

"(2) four members from outside the Federal Government who are eminent in the fields of computer or telecommunications technology, or related disciplines, but who are not employed by or representative of a producer of computer or telecommunications equipment; and

"(3) four members from the Federal Government who have computer systems management experience, including experience in computer systems security and privacy, at least one of whom shall be from the National Security Agency.

"(b) The duties of the Board shall be—

"(1) to identify emerging managerial, technical, administrative, and physical safeguard issues relative to computer systems security and privacy;

"(2) to advise the Bureau of Standards and the Secretary of Commerce on security and privacy issues pertaining to Federal computer systems; and

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"(3) to report its findings to the Secretary of Commerce, the Director of the Office of Management and Budget, the Director of the National Security Agency, and the appropriate committees of the Congress.

"(c) The term of office of each member of the Board shall be four years, except that—

"(1) of the initial members, three shall be appointed for terms of one year, three shall be appointed for terms of two years, three shall be appointed for terms of three years, and three shall be appointed for terms of four years; and

"(2) any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed.

"(d) The Board shall not act in the absence of a quorum, which shall consist of seven members.

"(e) Members of the Board, other than full-time employees of the Federal Government, while attending meetings of such committees or while otherwise performing duties at the request of the Board

Chairman while away from their homes or a regular place of business, may be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

"(f) To provide the staff services necessary to assist the Board in carrying out its functions, the Board may utilize personnel from the National Bureau of Standards or any other agency of the Federal Government with the consent of the head of the agency.

"(g) As used in this section, the terms 'computer system' and 'Federal computer system' have the meanings given in section 20(d) of this Act."; and

(3) by adding at the end thereof the following new section:

National Bureau of Standards Act. 15 USC 271 note.

"SEC. 23. This Act may be cited as the National Bureau of Standards Act.".

SEC. 4. AMENDMENT TO BROOKS ACT.

Section 111(d) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 759(d)) is amended to read as follows:

"(d)(1) The Secretary of Commerce shall, on the basis of standards and guidelines developed by the National Bureau of Standards pursuant to section 20(a) (2) and (3) of the National Bureau of Standards Act, promulgate standards and guidelines pertaining to Federal computer systems, making such standards compulsory and binding to the extent to which the Secretary determines necessary to improve the efficiency of operation or security and privacy of Federal computer systems. The President may disapprove or modify such standards and guidelines if he determines such action to be in the public interest. The President's authority to disapprove or modify such standards and guidelines may not be delegated. Notice of such disapproval or modification shall be submitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental Affairs of the Senate and shall be published promptly in the Federal Register. Upon receiving notice of such disapproval or modification, the Secretary of Commerce shall immediately rescind or modify such standards or guidelines as directed by the President.

President of U.S.

Federal Register, publication.

"(2) The head of a Federal agency may employ standards for the cost-effective security and privacy of sensitive information in a Federal computer system within or under the supervision of that agency that are more stringent than the standards promulgated by the Secretary of Commerce, if such standards contain, at a minimum, the provisions of those applicable standards made compulsory and binding by the Secretary of Commerce.

"(3) The standards determined to be compulsory and binding may be waived by the Secretary of Commerce in writing upon a determination that compliance would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or cause a major adverse financial impact on the operator which is not offset by Government-wide savings. The Secretary may delegate to the head of one or more Federal agencies authority to waive such standards to the extent to which the Secretary determines such action to be necessary and desirable to allow for timely and effective implementation of Federal computer systems standards. The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of title 44, United States Code. Notice of each such waiver and delegation shall be transmitted promptly to the Committee on Government Operations of the House of Representatives and the Committee on Governmental

Federal Register, publication.

Affairs of the Senate and shall be published promptly in the Federal Register.

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"(4) The Administrator shall revise the Federal information resources management regulations (41 CFR ch. 201) to be consistent with the standards and guidelines promulgated by the Secretary of Commerce under this subsection.

"(5) As used in this subsection, the terms 'Federal computer system' and 'operator of a Federal computer system' have the meanings given in section 20(d) of the National Bureau of Standards Act.".

SEC. 5. FEDERAL COMPUTER SYSTEM SECURITY TRAINING.

40 USC 759 note.

(a) In General.—Each Federal agency shall provide for the mandatory periodic training in computer security awareness and accepted computer security practice of all employees who are involved with the management, use, or operation of each Federal computer system within or under the supervision of that agency. Such training shall be—

(1) provided in accordance with the guidelines developed pursuant to section 20(a)(5) of the National Bureau of Standards Act (as added by section 3 of this Act), and in accordance with the regulations issued under subsection (c) of this section for Federal civilian employees; or

(2) provided by an alternative training program approved by the head of that agency on the basis of a determination that the alternative training program is at least as effective in accomplishing the objectives of such guidelines and regulations.

(b) Training Objectives.—Training under this section shall be started within 60 days after the issuance of the regulations described in subsection (c). Such training shall be designed—

(1) to enhance employees' awareness of the threats to and vulnerability of computer systems; and

(2) to encourage the use of improved computer security practices.

(c) Regulations.—Within six months after the date of the enactment of this Act, the Director of the Office of Personnel Management shall issue regulations prescribing the procedures and scope of the training to be provided Federal civilian employees under subsection (a) and the manner in which such training is to be carried out.

SEC. 6. ADDITIONAL RESPONSIBILITIES FOR COMPUTER SYSTEMS SECURITY AND PRIVACY.

40 USC 759 note.

(a) Identification of Systems That Contain Sensitive Information.—Within 6 months after the date of enactment of this Act, each Federal agency shall identify each Federal computer system, and system under development, which is within or under the supervision of that agency and which contains sensitive information.

(b) Security Plan.—Within one year after the date of enactment of this Act, each such agency shall, consistent with the standards, guidelines, policies, and regulations prescribed pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949, establish a plan for the security and privacy of each Federal computer system identified by that agency pursuant to subsection (a) that is commensurate with the risk and magnitude of the harm resulting from the loss, misuse, or unauthorized access to or modification of the information contained in such system. Copies of each such plan shall be transmitted to the National Bureau of Standards and the National Security Agency for advice and comment. A summary of such plan shall be included in the agency's five-year plan required by section 3505 of title 44, United States Code. Such plan shall be subject to disapproval by the Director of the Office of Management and Budget. Such plan shall be revised annually as necessary.

40 USC 759 note.

SEC. 7. DEFINITIONS.

As used in this Act, the terms "computer system", "Federal computer system", "operator of a Federal computer system", "sensitive information", and "Federal agency" have the meanings given in section 20(d) of the National Bureau of Standards Act (as added by section 3 of this Act).

40 USC 759 note.

SEC. 8. RULES OF CONSTRUCTION OF ACT.

Nothing in this Act, or in any amendment made by this Act, shall be construed—

(1) to constitute authority to withhold information sought pursuant to section 552 of title 5, United States Code; or

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(2) to authorize any Federal agency to limit, restrict, regulate, or control the collection, maintenance, disclosure, use, transfer, or sale of any information (regardless of the medium in which the information may be maintained) that is—

(A) privately-owned information;

(B) disclosable under section 552 of title 5, United States Code, or other law requiring or authorizing the public disclosure of information; or

(C) public domain information.

Approved January 8, 1988.

LEGISLATIVE HISTORY—H.R. 145:

HOUSE REPORTS: No. 100-153, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Government Operations).

CONGRESSIONAL RECORD, Vol. 133 (1987):
June 22, considered and passed House.
Dec. 21, considered and passed Senate.

Public Law 100-252
100th Congress

An Act

Feb. 29, 1988
[H.R. 1612]

To authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $5,778,000 for the fiscal year ending September 30, 1988, $5,788,000 for the fiscal year ending September 30, 1989, and $5,798,000 for the fiscal year ending September 30, 1990.".

(b) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $38,540,000 for the fiscal year ending September 30, 1988; $41,819,000 for the fiscal year ending September 30, 1989; and $43,283,000 for the fiscal year ending September 30, 1990".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $28,235,000 for the fiscal year ending September 30, 1988; $31,634,000 for the fiscal year ending September 30, 1989; and $35,454,000 for the fiscal year ending September 30, 1990".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $525,000 for the fiscal year ending September 30, 1988; $525,000 for the fiscal year ending September 30, 1989; and $525,000 for the fiscal year ending September 30, 1990".

SEC. 2. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by adding at the end the following:

"(j) COST SHARING.—(1) In the case of any State which has voluntarily engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over the three-fiscal-year period ending September 30, 1987, any such cost sharing that may be required for the fiscal year ending September 30, 1988, or the fiscal year ending September 30, 1989, shall be at a level no higher than the State's average level of such cost sharing over such three-year period.

"(2) In the case of any State which has not engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over such three-fiscal-year period—

"(A) no such cost sharing may be required for the fiscal year ending September 30, 1988; and

"(B) any such cost sharing that may be required for the fiscal year ending September 30, 1989, shall be at a level no higher than 25 percent of the cost of the activities involved.

"(3) Nothing in this subsection shall be construed to prevent a State, voluntarily and at its option, from engaging in cost sharing at a level higher than the maximum level which may be required of it under paragraph (1) or (2).".

Approved February 29, 1988.

LEGISLATIVE HISTORY—H.R. 1612:

HOUSE REPORTS: No. 100-89, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science, Space, and Technology).

SENATE REPORTS: No. 100-239 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:
Vol. 133 (1987): June 8, considered and passed House.
Dec. 21, considered and passed Senate, amended.
Vol. 134 (1988): Feb. 16, House concurred in Senate amendment.

PUBLIC LAW 100-408—AUG. 20, 1988

PRICE-ANDERSON AMENDMENTS ACT OF 1988

Public Law 100–408
100th Congress

An Act

Aug. 20, 1988
[H.R. 1414]

To amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Price-Anderson Amendments Act of 1988.
42 USC 2011 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the “Price-Anderson Amendments Act of 1988”.

SEC. 2. FINANCIAL PROTECTION.

(a) Primary Financial Protection Amount Required for Large Electrical Generating Facilities.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting “primary” before “financial protection” the first, second, third, and sixth places it appears;

(2) by inserting before the period at the end of the proviso in the first sentence the following; “(excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection)”; and

(3) by striking in the third sentence all that precedes “private liability insurance” and inserting the following: “The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection,”.

(b) Standard Deferred Premium Amount.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) in the second proviso of the third sentence by striking “That” and all that follows through “protection” and inserting the following: “That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than $63,000,000 (subject to adjustment for inflation under subsection t.), but not more than $10,000,000 in any 1 year, for each facility for which such licensee is required to maintain the maximum amount of primary financial protection”; and

(2) in the third proviso of the third sentence, by adding after “and costs” the following: “(excluding legal costs subject to subsection o. (1)(D), payment of which has not been authorized under such subsection)”.

(c) Lesser Annual Deferred Premium Amounts.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting.“(1)” after the subsection designation;

(2) in the first sentence, by redesignating clauses (1) through (3) as clauses (A) through (C), respectively;

(3) by striking the fifth and sixth sentences; and

(4) by adding at the end of the fourth sentence the following new paragraph:

"(2)(A) The Commission may, on a case by case basis, assess annual deferred premium amounts less than the standard annual deferred premium amount assessed under paragraph (1)—

"(i) for any facility, if more than one nuclear incident occurs in any one calendar year; or

"(ii) for any licensee licensed to operate more than one facility, if the Commission determines that the financial impact of assessing the standard annual deferred premium amount under paragraph (1) would result in undue financial hardship to such licensee or the ratepayers of such licensee.

"(B) In the event that the Commission assesses a lesser annual deferred premium amount under subparagraph (A), the Commission shall require payment of the difference between the standard annual deferred premium assessment under paragraph (1) and any such lesser annual deferred premium assessment within a reasonable period of time, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the standard annual deferred premium assessment under paragraph (1) would become due.".

(d) BORROWING AUTHORITY.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "(3)" before the penultimate sentence and redesignating the penultimate and last sentences as a paragraph (3); and

(2) by adding at the end the following new paragraph:

Claims.

"(4)(A) In the event that the funds available to pay valid claims in any year are insufficient as a result of the limitation on the amount of deferred premiums that may be required of a licensee in any year under paragraph (1) or (2), or the Commission is required to make reinsurance or guaranteed payments under paragraph (3), the Commission shall, in order to advance the necessary funds—

"(i) request the Congress to appropriate sufficient funds to satisfy such payments; or

"(ii) to the extent approved in appropriation Acts, issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Commission and the Secretary of the Treasury.

"(B) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), any funds appropriated under subparagraph (A)(i) shall be repaid to the general fund of the United States Treasury from amounts made available by standard deferred premium assessments, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the funds appropriated under such subparagraph are made available.

"(C) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), redemption of obligations issued under subparagraph (A)(ii) shall be made by the Commission from amounts made available by standard deferred premium assessments. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury by taking into consideration the average market yield on outstanding marketable obligations to the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. Securities. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by the Secretary of the Treasury under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.".

SEC. 3. INDEMNIFICATION AGREEMENTS FOR LICENSEES OF NUCLEAR REGULATORY COMMISSION.

Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by striking "August 1, 1987" each place it appears and inserting "August 1, 2002".

SEC. 4. INDEMNIFICATION AGREEMENTS FOR ACTIVITIES UNDERTAKEN UNDER CONTRACT WITH DEPARTMENT OF ENERGY.

(a) IN GENERAL.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended to read as follows:

"d. INDEMNIFICATION OF CONTRACTORS BY DEPARTMENT OF ENERGY.—(1)(A) Termination date. In addition to any other authority the Secretary of Energy (in this section referred to as the 'Secretary') may have, the Secretary shall, until August 1, 2002, enter into agreements of indemnification under this subsection with any person who may conduct activities under a contract with the Department of Energy that involve the risk of public liability and that are not subject to financial protection requirements under subsection b. or agreements of indemnification under subsection c. or k.

Effective date. "(B)(i)(I) Beginning 60 days after the date of enactment of the Price-Anderson Amendments Act of 1988, agreements of indemnification under subparagraph (A) shall be the exclusive means of indemnification for public liability arising from activities described in such subparagraph, including activities conducted under a contract that contains an indemnification clause under Public Law 85-804 entered into between August 1, 1987, and the date of enactment of the Price-Anderson Amendments Act of 1988.

"(II) The Secretary may incorporate in agreements of indemnification under subparagraph (A) the provisions relating to the waiver of any issue or defense as to charitable or governmental immunity authorized in subsection n. (1) to be incorporated in agreements of indemnification. Any such provisions incorporated under this subclause shall apply to any nuclear incident arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A).

"(ii) Public liability arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A) that are funded by the Nuclear Waste Fund established in section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall be compensated from the Nuclear Waste Fund in an amount not to exceed the maximum amount of financial protection required of licensees under subsection b.

"(2) In agreements of indemnification entered into under paragraph (1), the Secretary may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, to the full extent of the aggregate public liability of the persons indemnified for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary.

Claims.

"(3)(A) Notwithstanding paragraph (2), if the maximum amount of financial protection required of licensees under subsection b. is increased by the Commission, the amount of indemnity, together with any financial protection required of the contractor, shall at all times remain equal to or greater than the maximum amount of financial protection required of licensees under subsection b.

"(B) The amount of indemnity provided contractors under this subsection shall not, at any time, be reduced in the event that the maximum amount of financial protection required of licensees is reduced.

"(C) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 1988, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on such date.

Effective date.

"(4) Financial protection under paragraph (2) and indemnification under paragraph (1) shall be the exclusive means of financial protection and indemnification under this section for any Department of Energy demonstration reactor licensed by the Commission under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

"(5) In the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Secretary under this subsection shall not exceed $100,000,000.

"(6) The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Secretary.

"(7) A contractor with whom an agreement of indemnification has been executed under paragraph (1)(A) and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this subsection, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.".

(b) **Definitions.**—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended by adding at the end the following new subsections:

"dd. The terms 'high-level radioactive waste' and 'spent nuclear fuel' have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

"ee. The term 'transuranic waste' means material contaminated with elements that have an atomic number greater than 92, including neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

"ff. The term 'nuclear waste activities', as used in section 170, means activities subject to an agreement of indemnification under subsection d. of such section, that the Secretary of Energy is authorized to undertake, under this Act or any other law, involving the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96-164 (93 Stat. 1265).".

SEC. 5. PRECAUTIONARY EVACUATIONS.

(a) Costs Incurred by State Governments.—Section 11 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(w)) is amended by inserting after "nuclear incident" the first place it appears the following: "or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation)".

(b) Definition.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"gg. The term 'precautionary evacuation' means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

"(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

"(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to initiate such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety.".

(c) Limitation.—Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

Courts, U.S.

"q. Limitation on Awarding of Precautionary Evacuation Costs.—No court may award costs of a precautionary evacuation unless such costs constitute a public liability.".

SEC. 6. AGGREGATE PUBLIC LIABILITY FOR SINGLE NUCLEAR INCIDENT.

Section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)) is amended to read as follows:

"e. Limitation on Aggregate Public Liability.—(1) The aggregate public liability for a single nuclear incident of persons indemnified, including such legal costs as are authorized to be paid under subsection o. (1)(D), shall not exceed—

"(A) in the case of facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the maximum amount of financial protection required of such facilities under subsection b. (plus any surcharge assessed under subsection o. (1)(E));

Contracts.

"(B) in the case of contractors with whom the Secretary has entered into an agreement of indemnification under subsection d., the maximum amount of financial protection required under subsection b. or the amount of indemnity and financial protection that may be required under paragraph (3) of subsection d., whichever amount is more; and

"(C) in the case of all other licensees of the Commission required to maintain financial protection under this section—

"(i) $500,000,000, together with the amount of financial protection required of the licensee; or

"(ii) if the amount of financial protection required of the licensee exceeds $60,000,000, $560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

Claims.

"(2) In the event of a nuclear incident involving damages in excess of the amount of aggregate public liability under paragraph (1), the Congress will thoroughly review the particular incident in accordance with the procedures set forth in section 170 i. and will in accordance with such procedures, take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude.

"(3) No provision of paragraph (1) may be construed to preclude the Congress from enacting a revenue measure, applicable to licensees of the Commission required to maintain financial protection pursuant to subsection b., to fund any action undertaken pursuant to paragraph (2).

Contracts.

"(4) With respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection d. is applicable, such aggregate public liability shall not exceed the amount of $100,000,000, together with the amount of financial protection required of the contractor.".

SEC. 7. COMPENSATION PLANS.

(a) IN GENERAL.—Section 170 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(i)) is amended to read as follows:

"i. COMPENSATION PLANS.—(1) After any nuclear incident involving damages that are likely to exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1), the Secretary or the Commisison, as appropriate, shall—

"(A) make a survey of the causes and extent of damage; and

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"(B) expeditiously submit a report setting forth the results of such survey to the Congress, to the Representatives of the affected districts, to the Senators of the affected States, and (except for information that will cause serious damage to the national defense of the United States) to the public, to the parties involved, and to the courts.

President of U.S.

"(2) Not later than 90 days after any determination by a court, pursuant to subsection o., that the public liability from a single nuclear incident may exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1) the President shall submit to the Congress—

"(A) an estimate of the aggregate dollar value of personal injuries and property damage that arises from the nuclear incident and exceeds the amount of aggregate public liability under subsection e. (1);

Claims.

"(B) recommendations for additional sources of funds to pay claims exceeding the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1), which recommendations shall consider a broad range of possible sources of funds (including possible revenue measures on the sector of the economy, or on any other class, to which such revenue measures might be applied);

Claims.

"(C) 1 or more compensation plans, that either individually or collectively shall provide for full and prompt compensation for all valid claims and contain a recommendation or recommendations as to the relief to be provided, including any recommendations that funds be allocated or set aside for the payment of claims that may arise as a result of latent injuries that may not be discovered until a later date; and

"(D) any additional legislative authorities necessary to implement such compensation plan or plans.

"(3)(A) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

"(B) The provisions of paragraphs (4) through (6) shall apply with respect to consideration in the Senate of any compensation plan transmitted to the Senate pursuant to paragraph (2).

"(4) No such compensation plan may be considered approved for purposes of subsection 170 e. (2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to the Senate, the Senate passes a resolution described in paragraph 6 of this subsection.

"(5) For the purpose of paragraph (4) of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

"(6)(A) This paragraph is enacted—

"(i) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subparagraph (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(ii) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

"(B) For purposes of this paragraph, the term 'resolution' means only a joint resolution of the Congress the matter after the resolving clause of which is as follows: 'That the approves the compensation plan numbered submitted to the Congress on , 19 .', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

"(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

"(D)(i) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

"(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

"(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to a resolution shall be decided without debate.".

(b) CONFORMING AMENDMENT.—Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended—

(1) in the matter preceding paragraph (1), by striking "subsection 170 e.:" and inserting "the applicable limit of liability under subparagraph (A), (B), or (C) of subsection e. (1):"; and

(2) by striking paragraph (4).

SEC. 8. DATE OF EXEMPTION FROM FINANCIAL PROTECTION REQUIREMENT.

Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended—

(1) by striking "August 1, 1987" each place it appears and inserting "August 1, 2002"; and

(2) by striking "excluding cost of investigating and settling claims and defending suits for damage;" in paragraph (1) and inserting "including such legal costs of the licensee as are approved by the Commission;".

SEC. 9. PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by striking subsection 1. and inserting the following:

"(1) PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.—(1) Not later than 90 days after the date of the enactment of the Price-Anderson Amendments Act of 1988, the President shall establish a commission (in this subsection referred to as the 'study commission') in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) to study means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection e. (1).

"(2)(A) The study commission shall consist of not less than 7 and not more than 11 members, who—

"(i) shall be appointed by the President; and

"(ii) shall be representative of a broad range of views and interests.

"(B) The members of the study commission shall be appointed in a manner that ensures that not more than a mere majority of the members are of the same political party.

"(C) Each member of the study commission shall hold office until the termination of the study commission, but may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(D) Any vacancy in the study commission shall be filled in the manner in which the original appointment was made.

"(E) The President shall designate one of the members of the study commission as chairperson, to serve at the pleasure of the President.

Reports.

"(3) The study commission shall conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection e. (1), and shall submit to the Congress a final report setting forth—

"(A) recommendations for any changes in the laws and rules governing the liability or civil procedures that are necessary for the equitable, prompt, and efficient resolution and payment of all valid damage claims, including the advisability of adjudicating public liability claims through an administrative agency instead of the judicial system;

"(B) recommendations for any standards or procedures that are necessary to establish priorities for the hearing, resolution, and payment of claims when awards are likely to exceed the amount of funds available within a specific time period; and

"(C) recommendations for any special standards or procedures necessary to decide and pay claims for latent injuries caused by the nuclear incident.

"(4)(A) The chairperson of the study commission may appoint and fix the compensation of a staff of such persons as may be necessary to discharge the responsibilities of the study commission, subject to the applicable provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and title 5, United States Code.

"(B) To the extent permitted by law and requested by the chairperson of the study commission, the Administrator of General Services shall provide the study commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(C) The Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency shall, to the extent permitted by law and subject to the availability of funds, provide the study commission with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the study commission.

"(D) The study commission may request any Executive agency to furnish such information, advice, or assistance as it determines to be necessary to carry out its functions. Each such agency is directed, to the extent permitted by law, to furnish such information, advice or assistance upon request by the chairperson of the study commission.

"(E) Each member of the study commission may receive compensation at the maximum rate prescribed by the Federal Advisory Committee Act (5 U.S.C. App.) for each day such member is engaged in the work of the study commission. Each member may also receive travel expenses, including per diem in lieu of subsistence under sections 5702 and 5703 of title 5, United States Code.

"(F) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.) that are applicable to the study commission, except the function of reporting annually to the Congress, shall be performed by the Administrator of General Services.

Reports.

"(5) The final report required in paragraph (3) shall be submitted to the Congress not later than the expiration of the 2-year period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1988.

Termination date.

"(6) The study commission shall terminate upon the expiration of the 2-month period beginning on the date on which the final report required in paragraph (3) is submitted.".

SEC. 19. WAIVER OF DEFENSES.

(a) STATUTE OF LIMITATIONS.—Section 170 n. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended in clause (iii) of the first sentence by striking the following: ", but in no event more than twenty years after the date of the nuclear incident".

(b) APPLICABILITY.—Section 170 n. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended—

(1) by redesignating subparagraphs (a), (b), and (c) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "or" at the end of subparagraphs (A) and (B); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) arises out of, results from, or occurs in the course of, the construction, possession, or operation of any facility licensed under section 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a.,

"(E) arises out of, results from, or occurs in the course of, transportation of source material, byproduct material, or special nuclear material to or from any facility licensed under section 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a., or

"(F) arises out of, results from, or occurs in the course of nuclear waste activities.".

SEC. 11. JUDICIAL REVIEW OF CLAIMS ARISING OUT OF A NUCLEAR INCIDENT.

(a) CONSOLIDATION OF CLAIMS.—Section 170 n. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(2)) is amended—

(1) in the first sentence—

(A) by striking "an extraordinary nuclear occurrence" each place it appears and inserting "a nuclear incident"; and

(B) by striking "the extraordinary nuclear occurrence" each place it appears and inserting "the nuclear incident";

(2) in the second sentence, by inserting after "court" the first place it appears the following: "(including any such action pending on the date of the enactment of the Price-Anderson Amendments Act of 1988)"; and

(3) by adding at the end the following new sentence: "In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28, United States Code, or within the 30-day period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1988, whichever occurs later.".

(b) DEFINITION OF PUBLIC LIABILITY ACTION.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"hh. The term 'public liability action', as used in section 170, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 170, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.".

Courts, U.S.

(c) SPECIAL CASELOAD MANAGEMENT PANEL.—Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by adding at the end the following new paragraph:

"(3)(A) Following any nuclear incident, the chief judge of the United States district court having jurisdiction under paragraph (2) with respect to public liability actions (or the judicial council of the judicial circuit in which the nuclear incident occurs) may appoint a special caseload management panel (in this paragraph referred to as the 'management panel') to coordinate and assign (but not necessarily hear themselves) cases arising out of the nuclear incident, if—

"(i) a court, acting pursuant to subsection o., determines that the aggregate amount of public liability is likely to exceed the amount of primary financial protection available under subsection b. (or an equivalent amount in the case of a contractor indemnified under subsection d.); or

"(ii) the chief judge of the United States district court (or the judicial council of the judicial circuit) determines that cases arising out of the nuclear incident will have an unusual impact on the work of the court.

"(B)(i) Each management panel shall consist only of members who are United States district judges or circuit judges.

"(ii) Members of a management panel may include any United States district judge or circuit judge of another district court or court of appeals, if the chief judge of such other district court or court of appeals consents to such assignment.

"(C) It shall be the function of each management panel—

"(i) to consolidate related or similar claims for hearing or trial;

"(ii) to establish priorities for the handling of different classes of cases;

"(iii) to assign cases to a particular judge or special master;

"(iv) to appoint special masters to hear particular types of cases, or particular elements or procedural steps of cases;

"(v) to promulgate special rules of court, not inconsistent with the Federal Rules of Civil Procedure, to expedite cases or allow more equitable consideration of claims;

"(vi) to implement such other measures, consistent with existing law and the Federal Rules of Civil Procedure, as will encourage the equitable, prompt, and efficient resolution of cases arising out of the nuclear incident; and

"(vii) to assemble and submit to the President such data, available to the court, as may be useful in estimating the aggregate damages from the nuclear incident.".

(d) LEGAL COSTS.—

(1) PAYMENT CRITERIA.—Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)), as previously amended by this Act, is further amended by—

(A) inserting after the subsection designation the following: "PLAN FOR DISTRIBUTION OF FUNDS.—(1)";

(B) redesignating paragraphs (1) through (3) as subparagraphs (A) through (C); and

(C) adding at the end the following:

Courts, U.S.

"(D) A court may authorize payment of only such legal costs as are permitted under paragraph (2) from the amount of financial protection required by subsection b.

"(E) If the sum of public liability claims and legal costs authorized under paragraph (2) arising from any nuclear incident exceeds the maximum amount of financial protection required under subsection b., any licensee required to pay a standard deferred premium under subsection b. (1) shall, in addition to such deferred premium, be charged such an amount as is necessary to pay a pro rata share of such claims and costs, but in no case more than 5 percent of the maximum amount of such standard deferred premium described in such subsection.

"(2) A court may authorize the payment of legal costs under paragraph (1)(D) only if the person requesting such payment has—

"(A) submitted to the court the amount of such payment requested; and

"(B) demonstrated to the court—

"(i) that such costs are reasonable and equitable; and

"(ii) that such person has—

"(I) litigated in good faith;

"(II) avoided unnecessary duplication of effort with that of other parties similarly situated;

"(III) not made frivolous claims or defenses; and

"(IV) not attempted to unreasonably delay the prompt settlement or adjudication of such claims.".

(2) Definition of legal costs.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"jj. Legal Costs.—As used in section 170, the term 'legal costs' means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.".

SEC. 12. REPORTS TO CONGRESS BY NUCLEAR REGULATORY COMMISSION AND DEPARTMENT OF ENERGY.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking "shall submit to the Congress by August 1, 1983, a detailed report", and inserting the following: "and the Secretary shall submit to the Congress by August 1, 1998, detailed reports"; and

(3) by adding at the end the following new paragraph:

"(2) Not later than April 1 of each year, the Commission and the Secretary shall each submit an annual report to the Congress setting forth the activities under this section during the preceding calendar year.".

SEC. 13. LIABILITY OF LESSORS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"r. Limitation on Liability of Lessors.—No person under a bona fide lease of any utilization or production facility (or part thereof or undivided interest therein) shall be liable by reason of an interest as lessor of such production or utilization facility, for any legal liability arising out of or resulting from a nuclear incident resulting from such facility, unless such facility is in the actual possession and control of such person at the time of the nuclear incident giving rise to such legal liability.".

SEC. 14. PUNITIVE DAMAGES.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

Courts, U.S.

"s. Limitation on Punitive Damages.—No court may award punitive damages in any action with respect to a nuclear incident or precautionary evacuation against a person on behalf of whom the United States is obligated to make payments under an agreement of indemnification covering such incident or evacuation.".

SEC. 15. INFLATION ADJUSTMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"t. INFLATION ADJUSTMENT.—(1) The Commission shall adjust the amount of the maximum standard deferred premium under subsection b. (1) not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1988, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) such date of enactment, in the case of the first adjustment under this subsection; or

"(B) the previous adjustment under this subsection.

"(2) For purposes of this subsection, the term 'Consumer Price Index' means the Consumer Price Index for all urban consumers published by the Secretary of Labor.".

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO NUCLEAR REGULATORY COMMISSION.—

(1) Section 11 q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended by striking "Commission" each place it appears and inserting "Nuclear Regulatory Commission".

(2) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended by striking "Commission" in the first sentence and inserting the following: "Nuclear Regulatory Commission (in this section referred to as the 'Commission')".

(b) REFERENCES TO SECRETARY OF ENERGY.—

(1) Subsections j. and m. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) are amended by striking "Commission" each place it appears and inserting the following: "Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,".

(2) Section 11 t. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(t)(2)) is amended by striking "Commission" and inserting "Secretary of Energy".

(3) Section 170 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(f)) is amended by inserting after "Commission" the first 2 places it appears the following: "or the Secretary, as appropriate,".

(4) Subsections g., h., j., and m. of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) are amended by inserting after "Commission" each place it appears the following: "or the Secretary, as appropriate,".

(5) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended—

(A) in paragraph (1)—

(i) by striking "Commission" in subparagraph (C) and inserting "Department of Energy"; and

(ii) by inserting after "Commission" the second place it appears the following: "or the Secretary, as appropriate,"; and

(B) in paragraph (2), by inserting after "Commission" the following: "or the Secretary, as appropriate".

(6) Section 170 o. (1)(C), as redesignated by section 11(d)(1) of the bill, is amended—

(A) by inserting after "Commission" the first place it appears the following: "or the Secretary, as appropriate,"; and

(B) by inserting after "Commission" the second place it appears the following: "or the Secretary as appropriate".

(c) REFERENCES TO REVISED STATUTES.—

(1) Section 170 g. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(g)) is amended by inserting "(41 U.S.C. 5)" after "Statutes".

(2) Section 170 j. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(j)) is amended by striking "section 3679 of the Revised Statutes, as amended" and inserting the following: "sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31, United States Code".

(d) INTERNAL CROSS-REFERENCES.—

(1) Section 11 q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended by striking "subsection each place it appears and inserting "section".

(2) Section 11 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(t)) is amended by striking "subsection" each place it appears and inserting "section".

(3) Section 11 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(w)) is amended by striking "subsections 170 a., c., and k." and inserting "subsections a., c., and k. of section 170".

(4) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2010(a)) is amended—

(A) in the first sentence, by striking "subsection 2 i. of the Atomic Energy Act of 1954, as amended" and inserting "section 2 i.";

(B) in the first sentence, by striking "subsection 170 b." and inserting "subsection b."; and

(C) in the second sentence, by striking "subsection 170 c." and inserting "subsection c.".

(5) Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended in the first sentence by striking "subsection 170 a." and inserting "subsection a.".

(6) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended in the last sentence by striking "subsection 170 e." and inserting "subsection e.".

(7) Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended in subparagraph (B), as redesignated by section 11(d)(1) of the bill, by striking "subparagraph (3) of this subsection (o)" and inserting "subparagraph (C)".

(e) SUBSECTION CAPTIONS.—

(1) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended by inserting after the subsection designation the following: "REQUIREMENT OF FINANCIAL PROTECTION FOR LICENSEES.—".

(2) Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by inserting after the subsection designation the following: "AMOUNT AND TYPE OF FINANCIAL PROTECTION FOR LICENSEES.—".

(3) Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by inserting after the subsection designation the following: "INDEMNIFICATION OF LICENSES BY NUCLEAR REGULATORY COMMISSION.—".

(4) Section 170 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(f)) is amended by inserting after the subsection designation

the following: "COLLECTION OF FEES BY NUCLEAR REGULATORY COMMISSION.—".

(5) Section 170 g. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(g)) is amended by inserting after the subsection designation the following: "USE OF SERVICES OF PRIVATE INSURERS.—".

(6) Section 170 h. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(h)) is amended by inserting after the subsection designation the following: "CONDITIONS OF AGREEMENTS OF INDEMNIFICATION.—".

(7) Section 170 j. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(j)) is amended by inserting after the subsection designation the following: "CONTRACTS IN ADVANCE OF APPROPRIATIONS.—".

(8) Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by inserting after the subsection designation the following: "EXEMPTION FROM FINANCIAL PROTECTION REQUIREMENT FOR NONPROFIT EDUCATIONAL INSTITUTIONS.—".

(9) Section 170 m. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(m)) is amended by inserting after the subsection designation the following: "COORDINATED PROCEDURES FOR PROMPT SETTLEMENT OF CLAIMS AND EMERGENCY ASSISTANCE.—".

(10) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by inserting after the subsection designation the following: "WAIVER OF DEFENSES AND JUDICIAL PROCEDURES.—".

(11) Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by inserting after the subsection designation the following: "REPORTS TO CONGRESS.—".

SEC. 17. CIVIL PENALTIES.

The Atomic Energy Act of 1954, as amended, is further amended by adding a new section 234A as follows:

42 USC 2282a.
Contracts.

"SEC. 234A. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS.—a. Any person who has entered into an agreement of indemnification under subsection 170 d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any applicable rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation) shall be subject to a civil penalty of not to exceed $100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

"b. (1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

"(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. In implementing this section, the Secretary shall determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section.

"c. (1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

Courts, U.S.

"(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the election under paragraph (1).

Courts, U.S.

"(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

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"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

Schools and colleges.
Corporations.

"d. The provisions of this section shall not apply to:

"(1) The University of Chicago (and any subcontractors or suppliers thereto) for activities associated with Argonne National Laboratory;

"(2) The University of California (and any subcontractors or suppliers thereto) for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

"(3) American Telephone an Telegraph Company and its subsidiaries (and any subcontractors or suppliers thereto) for activities associated with Sandia National Laboratories;

"(4) Universities Research Association, Inc. (and any subcontractors or suppliers thereto) for activities associated with FERMI National Laboratory;

"(5) Princeton University (and any subcontractors or suppliers thereto) for activities associated with Princeton Plasma Physics Laboratory;

"(6) The Associated Universities, Inc. (and any subcontractors or suppliers thereto) for activities associated with the Brookhaven National Laboratory; and

"(7) Battelle Memorial Institute (and any subcontractors or suppliers thereto) for activities associated with Pacific Northwest Laboratory.".

SEC. 18. CRIMINAL PENALTIES.

Section 223 of the Atomic Energy Act of 1954, as amended, is further amended by adding a new subsection c. as follows: 42 USC 2273.

Contracts.

"c. Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 170 d. (or of a subcontractor or supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this Act or any applicable nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in subsection 11 q. shall, upon conviction, notwithstanding section 3571 of title 18, United States Code, be subject to a fine of not more than $25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, notwithstanding section 3571 of title 18, United States Code, punishment shall be a fine of not more than $50,000, or imprisonment for not more than five years, or both.".

SEC. 19. NEGOTIATED RULEMAKING ON FINANCIAL PROTECTION FOR RADIOPHARMACEUTICAL LICENSEES.

42 USC 2210 note.

Contracts.

(a) Rulemaking Proceeding.—

(1) Purpose.—The Nuclear Regulatory Commission (hereafter in this section referred to as the "Commission") shall initiate a proceeding, in accordance with the requirements of this section, to determine whether to enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with persons licensed by the Commission under section 81, 104(a), or 104(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2111, 2134(a), and 2134(c)) or by a State under section 274(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes (hereafter in this section referred to as "radiopharmaceutical licensees").

(2) Final determination.—A final determination with respect to whether radiopharmaceutical licensees, or any class of such licensees, shall be indemnified pursuant to section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and if so, the terms and conditions of such indemnification, shall be rendered

by the Commission within 18 months of the date of the enactment of this Act.

(b) Negotiated Rulemaking.—

(1) Administrative conference guidelines.—For the purpose of making the determination required under subsection (a), the Commission shall, to the extent consistent with the provisions of this Act, conduct a negotiated rulemaking in accordance with the guidance provided by the Administrative Conference of the United States in Recommendation 82-4, "Procedures for Negotiating Proposed Regulations" (42 Fed. Reg. 30708, July 15, 1982).

(2) Designation of convener.—Within 30 days of the date of the enactment of this Act, the Commission shall designate an individual or individuals recommended by the Administrative Conference of the United States to serve as a convener for such negotiations.

Contracts.

(3) Submission of recommendations of the convener.—The convener shall, not later than 7 months after the date of the enactment of this Act, submit to the Commission recommendations for a proposed rule regarding whether the Commission should enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with radiopharmaceutical licensees and, if so, the terms and conditions of such indemnification. If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the proposed rule submitted by the convener shall set forth the procedures for the execution of indemnification agreements with radiopharmaceutical licensees.

(4) Publication of recommendations and proposed rule.—If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the Commission shall publish the recommendations of the convener submitted under paragraph (3) as a notice of proposed rulemaking within 30 days of the submission of such recommendations under such paragraph.

(5) Administrative procedures.—To the extent consistent with the provisions of this Act, the Commission shall conduct the proceeding required under subsection (a) in accordance with section 553 of title 5, United States Code.

42 USC 2014 note.

SEC. 20. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of the enactment of this Act and shall be applicable with respect to nuclear incidents occurring on or after such date.

(b)(1) The amendments made by section 11 shall apply to nuclear incidents occurring before, on, or after the date of the enactment of this Act.

(2)(A) Section 234A of the Atomic Energy Act of 1954 shall not apply to any violation occurring before the date of the enactment of this Act.

(B) Section 223 c. of the Atomic Energy Act of 1954 shall not apply to any violation occurring before the date of enactment of this Act.

Approved August 20, 1988.

LEGISLATIVE HISTORY—H.R. 1414 (S. 748) (S. 1865):

HOUSE REPORTS: No. 100-104, Pt. 1 (Comm. on Interior and Insular Affairs), Pt. 2 (Comm. on Science, Space, and Technology), and Pt. 3 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 100-70 accompanying S. 748 (Comm. on Energy and Natural Resources) and No. 100-218 accompanying S. 1865 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:
Vol. 133 (1987): July 29, 30, considered and passed House.
Vol. 134 (1988): Mar. 16-18, considered and passed Senate, amended.
Aug. 2, House concurred in certain Senate amendment with an amendment and disagreed to others.
Aug. 5, Senate receded and concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 22, Presidential statement.

Public Law 100-418
100th Congress

An Act

Aug. 23, 1988
[H.R. 4848]

To enhance the competitiveness of American industry, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Trade and Competitiveness Act of 1988.
Exports.
Imports.
International agreements.
19 USC 2901 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Trade and Competitiveness Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Legislative history of H.R. 3 applicable.

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

Sec. 1001. Findings and purposes.

Subtitle A—United States Trade Agreements

PART 1—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

Sec. 1101. Overall and principal trade negotiating objectives of the United States.
Sec. 1102. Trade agreement negotiating authority.
Sec. 1103. Implementation of trade agreements.
Sec. 1104. Compensation authority.
Sec. 1105. Termination and reservation authority; reciprocal nondiscriminatory treatment.
Sec. 1106. Accession of state trading regimes to the General Agreement on Tariffs and Trade.
Sec. 1107. Definitions and conforming amendments.

PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

Sec. 1111. Hearings and advice.

PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

Sec. 1121. Implementation of Nairobi Protocol.
Sec. 1122. Implementation of United States-EC Agreement on citrus and pasta.
Sec. 1123. Extension of International Coffee Agreement Act of 1980.
Sec. 1124. Negotiations on currency exchange rates.
Sec. 1125. Reports on negotiations to eliminate wine trade barriers.

Subtitle B—Implementation of the Harmonized Tariff Schedule

Sec. 1201. Purposes.
Sec. 1202. Definitions.
Sec. 1203. Congressional approval of United States accession to the Convention.
Sec. 1204. Enactment of the Harmonized Tariff Schedule.
Sec. 1205. Commission review of, and recommendations regarding, the Harmonized Tariff Schedule.
Sec. 1206. Presidential action on Commission recommendations.
Sec. 1207. Publication of the Harmonized Tariff Schedule.
Sec. 1208. Import and export statistics.
Sec. 1209. Coordination of trade policy and the Convention.
Sec. 1210. United States participation on the Customs Cooperation Council regarding the Convention.
Sec. 1211. Transition to the Harmonized Tariff Schedule.
Sec. 1212. Reference to the Harmonized Tariff Schedule.
Sec. 1213. Technical amendments.
Sec. 1214. Conforming amendments.
Sec. 1215. Negotiating authority for certain ADP equipment.
Sec. 1216. Commission report on operation of subtitle.

Sec. 1217. Effective dates.

Subtitle C—Response to Unfair International Trade Practices

PART 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSES TO FOREIGN TRADE PRACTICES

Sec. 1301. Revision of chapter 1 of title III of the Trade Act of 1974.
Sec. 1302. Identification of trade liberalization priorities.
Sec. 1303. Identification of countries that deny adequate and effective protection of intellectual property rights.
Sec. 1304. Amendments to the National Trade Estimates.
Sec. 1305. Investigation of barriers in Japan to certain United States services.
Sec. 1306. Trade and economic relations with Japan.
Sec. 1307. Supercomputer trade dispute.

PART 2—IMPROVEMENT IN THE ENFORCEMENT OF THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

Sec. 1311. Reference to title VII of the Tariff Act of 1930.
Sec. 1312. Actionable domestic subsidies.
Sec. 1313. Calculation of subsidies on certain processed agricultural products.
Sec. 1314. Revocation of status as a country under the Agreement.
Sec. 1315. Treatment of international consortia.
Sec. 1316. Dumping by nonmarket economy countries.
Sec. 1317. Third-country dumping.
Sec. 1318. Input dumping by related parties.
Sec. 1319. Fictitious markets.
Sec. 1320. Downstream product monitoring.
Sec. 1321. Prevention of circumvention of antidumping and countervailing duty orders.
Sec. 1322. Steel imports.
Sec. 1323. Short life cycle products.
Sec. 1324. Critical circumstances.
Sec. 1325. Expedited review authority.
Sec. 1326. Processed agricultural products.
Sec. 1327. Leases equivalent to sales.
Sec. 1328. Material injury.
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Sec. 6402. National Science Foundation Academic Research Facilities Modernization Program.
Sec. 6403. National Science Foundation College Science Instrumentation Program.

TITLE VII—BUY AMERICAN ACT OF 1988

Sec. 7001. Short title.
Sec. 7002. Amendments to the Buy American Act.
Sec. 7003. Procedures to prevent Government procurement discrimination.
Sec. 7004. Sunset provision.
Sec. 7005. Conforming amendments.

TITLE VIII—SMALL BUSINESS

Sec. 8001. Short title.
Sec. 8002. Declaration of policy.
Sec. 8003. Changes in existing Small Business Administration International Trade Office.

Sec. 8004. Authorization of appropriations.
Sec. 8005. Export financing provided by the Administration.
Sec. 8006. Small Business Development Centers.
Sec. 8007. Capital formation.
Sec. 8008. Small Business Innovation Research.
Sec. 8009. Globalization of production.
Sec. 8010. Small business trade remedy assistance.
Sec. 8011. National Seminar on Small Business Exports.
Sec. 8012. Trade negotiations.
Sec. 8013. Promulgation of regulations.
Sec. 8014. Effective date.

TITLE IX—PATENTS

Subtitle A—Process Patents

Sec. 9001. Short title.
Sec. 9002. Rights of owners of patented processes.
Sec. 9003. Infringement for importation, use, or sale.
Sec. 9004. Damages for infringement.
Sec. 9005. Presumption in certain infringement actions.
Sec. 9006. Effective date.
Sec. 9007. Reports to Congress.

Subtitle B—Foreign Filing

Sec. 9101. Increased effectiveness of patent law.

Subtitle C—Patent Term Extension

Sec. 9201. Patent term extension.
Sec. 9202. Procedure.

TITLE X—OCEAN AND AIR TRANSPORTATION

Subtitle A—Foreign Shipping Practices

Sec. 10001. Short title.
Sec. 10002. Foreign laws and practices.
Sec. 10003. Mobile trade fairs.

Subtitle B—International Air Transportation

Sec. 10011. Maximum period for taking action with respect to complaints.
Sec. 10012. Views of the Department of Commerce and Office of the United States Trade Representative.
Sec. 10013. Reporting on actions taken with respect to complaints.

SEC. 2. LEGISLATIVE HISTORY OF H.R. 3 APPLICABLE.

(a) In General.—Except as provided in subsection (b), the legislative history of a title, subtitle, part, subpart, chapter, subchapter, section, or other provision of the conference report to accompany H.R. 3 of the 100th Congress (H. Rept. 100-576) shall be treated (along with any other legislative history developed by reason of this Act) as being the legislative history of the provision of this Act that has the same numerical or alphabetical designation as the provision of the conference report.

(b) Exceptions.—

(1) Subsection (a) does not apply to section 2424(a) of this Act.

(2) The legislative history for subtitle F of title VI of the conference report to accompany H.R. 3 shall be treated as the legislative history for subtitle E of title VI of this Act.

TITLE V—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTMENT; AND TECHNOLOGY

Subtitle A—Foreign Corrupt Practices Act Amendments; Review of Certain Acquisitions

PART I—FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

Foreign Corrupt Practices Act Amendments of 1988.
15 USC 78a note.

SEC. 5001. SHORT TITLE.

This part may be cited as the "Foreign Corrupt Practices Act Amendments of 1988".

SEC. 5002. PENALTIES FOR VIOLATIONS OF ACCOUNTING STANDARDS.

Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by adding at the end thereof the following:

"(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.

"(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).

"(6) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such circumstances include the relative degree of the issuer's ownership of the domestic or foreign firm and the laws and practices governing the business operations of the country in which such firm is located. An issuer which demonstrates good faith efforts to use such influence shall be conclusively presumed to have complied with the requirements of paragraph (2).

"(7) For the purpose of paragraph (2) of this subsection, the terms 'reasonable assurances' and 'reasonable detail' mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.".

SEC. 5003. FOREIGN CORRUPT PRACTICES ACT AMENDMENTS.

(a) PROHIBITED TRADE PRACTICES BY ISSUERS.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended to read as follows:

"PROHIBITED FOREIGN TRADE PRACTICES BY ISSUERS

Mail.
Gifts and property.

"SEC. 30A. (a) PROHIBITION.—It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports under section 15(d) of this title, or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) GUIDELINES BY THE ATTORNEY GENERAL.—Not later than one year after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

Contracts.

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and

"(2) general precautionary procedures which issuers may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(e) OPINIONS OF THE ATTORNEY GENERAL.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by issuers concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in a request by an issuer and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

Courts, U.S.

Classified information.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by an issuer under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the issuer, be made publicly available, regardless of whether the Attorney General responds to such a request or the issuer withdraws such request before receiving a response.

"(3) Any issuer who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(2)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(3)(A) The term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) actions of a similar nature.

"(B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decisionmaking process to encourage a decision to award new business to or continue business with a particular party.".

(b) VIOLATIONS.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended to read as follows:

"(c)(1)(A) Any issuer that violates section 30A(a) shall be fined not more than $2,000,000.

"(B) Any issuer that violates section 30A(a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

"(2)(A) Any officer or director of an issuer, or stockholder acting on behalf of such issuer, who willfully violates section 30A(a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any employee or agent of an issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such issuer), and who willfully violates section 30A(a), shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(C) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates section 30A(a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of an issuer, such fine may not be paid, directly or indirectly, by such issuer.".

(c) PROHIBITED TRADE PRACTICES BY DOMESTIC CONCERNS.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended to read as follows:

"PROHIBITED FOREIGN TRADE PRACTICES BY DOMESTIC CONCERNS

Mail.
Gifts and property.

"SEC. 104. (a) PROHIBITION.—It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, or for any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) INJUNCTIVE RELIEF.—(1) When it appears to the Attorney General that any domestic concern to which this section applies, or officer, director, employee, agent, or stockholder thereof, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond. Courts, U.S.

"(2) For the purpose of any civil investigation which, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General or his designee are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General or his designee, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district in which such person resides or may be found. The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

"(e) GUIDELINES BY THE ATTORNEY GENERAL.—Not later than 6 months after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Securities and Exchange Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

Contracts.

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and

"(2) general precautionary procedures which domestic concerns may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(f) Opinions of the Attorney General.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by domestic concerns concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in a request by a domestic concern and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

Courts, U.S.

Classified information.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by a domestic concern under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the domestic concern, be made publicly available, regardless of whether the Attorney General responds to such a request or the domestic concern withdraws such request before receiving a response.

"(3) Any domestic concern who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

"(g) PENALTIES.—(1)(A) Any domestic concern that violates subsection (a) shall be fined not more than $2,000,000.

"(B) Any domestic concern that violates subsection (a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(2)(A) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any employee or agent of a domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully violates subsection (a), shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(C) Any officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who violates subsection (a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a domestic concern, such fine may not be paid, directly or indirectly, by such domestic concern.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'domestic concern' means—

"(A) any individual who is a citizen, national, or resident of the United States; and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

"(2) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(3)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(4)(A) For purposes of paragraph (1), the term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) actions of a similar nature.

"(B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.

"(5) The term 'interstate commerce' means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof, and such term includes the intrastate use of—

"(A) a telephone or other interstate means of communication, or

"(B) any other interstate instrumentality.".

15 USC 78dd-1 note.

(d) INTERNATIONAL AGREEMENT.—

(1) NEGOTIATIONS.—It is the sense of the Congress that the President should pursue the negotiation of an international agreement, among the members of the Organization of Economic Cooperation and Development, to govern persons from those countries concerning acts prohibited with respect to issuers and domestic concerns by the amendments made by this section. Such international agreement should include a process by which problems and conflicts associated with such acts could be resolved.

(2) REPORT TO CONGRESS.—(A) Within 1 year after the date of the enactment of this Act, the President shall submit to the Congress a report on—

(i) the progress of the negotiations referred to in paragraph (1),

(ii) those steps which the executive branch and the Congress should consider taking in the event that these negotiations do not successfully eliminate any competitive disadvantage of United States businesses that results when persons from other countries commit the acts described in paragraph (1); and

(iii) possible actions that could be taken to promote cooperation by other countries in international efforts to prevent bribery of foreign officials, candidates, or parties in third countries.

(B) The President shall include in the report submitted under subparagraph (A)—

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(i) any legislative recommendations necessary to give the President the authority to take appropriate action to carry out clauses (ii) and (iii) of subparagraph (A);

(ii) an analysis of the potential effect on the interests of the United States, including United States national security, when persons from other countries commit the acts described in paragraph (1); and

(iii) an assessment of the current and future role of private initiatives in curtailing such acts.

PART II—REVIEW OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

SEC. 5021. AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.

Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2158 et seq.) is amended by adding at the end thereof the following:

"AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

Defense and national security.
50 USC app. 2170.

"SEC. 721. (a) INVESTIGATIONS.—The President or the President's designee may make an investigation to determine the effects on national security of mergers, acquisitions, and takeovers proposed or pending on or after the date of enactment of this section by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. If it is determined that an investigation should be undertaken, it shall commence no later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover as prescribed by regulations promulgated pursuant to this section. Such investigation shall be completed no later than 45 days after such determination.

"(b) CONFIDENTIALITY OF INFORMATION.—Any information or documentary material filed with the President or the President's designee pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subsection shall be construed to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of the Congress.

"(c) ACTION BY THE PRESIDENT.—Subject to subsection (d), the President may take such action for such time as the President considers appropriate to suspend or prohibit any acquisition, merger, or takeover, of a person engaged in interstate commerce in

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the United States proposed or pending on or after the date of enactment of this section by or with foreign persons so that such control will not threaten to impair the national security. The President shall announce the decision to take action pursuant to this subsection not later than 15 days after the investigation described in subsection (a) is completed. The President may direct the Attorney General to seek appropriate relief, including divestment relief, in the district courts of the United States in order to implement and enforce this section.

"(d) FINDINGS OF THE PRESIDENT.—The President may exercise the authority conferred by subsection (c) only if the President finds that—

"(1) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security, and

"(2) provisions of law, other than this section and the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), do not in the President's judgment provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

The provisions of subsection (d) of this section shall not be subject to judicial review.

"(e) FACTORS TO BE CONSIDERED.—For purposes of this section, the President or the President's designee may, taking into account the requirements of national security, consider among other factors—

"(1) domestic production needed for projected national defense requirements,

"(2) the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services, and

"(3) the control of domestic industries and commercial activity by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

President of U.S.

"(f) REPORT TO THE CONGRESS.—If the President determines to take action under subsection (c), the President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the action which the President intends to take, including a detailed explanation of the findings made under subsection (d).

President of U.S.

"(g) REGULATIONS.—The President shall direct the issuance of regulations to carry out this section. Such regulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.

"(h) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to alter or affect any existing power, process, regulation, investigation, enforcement measure, or review provided by any other provision of law.".

Subtitle B—Technology

PART I—TECHNOLOGY COMPETITIVENESS

Technology Competitiveness Act.
Research and development.
15 USC 271 note.

SEC. 5101. SHORT TITLE.

This part may be cited as the "Technology Competitiveness Act".

Subpart A—National Institute of Standards and Technology

SEC. 5111. FINDINGS AND PURPOSES.

Section 1 of the Act of March 3, 1901 (15 U.S.C. 271) is amended to read as follows:

"FINDINGS AND PURPOSES

"SECTION 1. (a) The Congress finds and declares the following:

"(1) The future well-being of the United States economy depends on a strong manufacturing base and requires continual improvements in manufacturing technology, quality control, and techniques for ensuring product reliability and cost-effectiveness.

"(2) Precise measurements, calibrations, and standards help United States industry and manufacturing concerns compete strongly in world markets.

"(3) Improvements in manufacturing and product technology depend on fundamental scientific and engineering research to develop (A) the precise and accurate measurement methods and measurement standards needed to improve quality and reliability, and (B) new technological processes by which such improved methods may be used in practice to improve manufacturing and to assist industry to transfer important laboratory discoveries into commercial products.

"(4) Scientific progress, public safety, and product compatibility and standardization also depend on the development of precise measurement methods, standards, and related basic technologies.

"(5) The National Bureau of Standards since its establishment has served as the Federal focal point in developing basic measurement standards and related technologies, has taken a lead role in stimulating cooperative work among private industrial organizations in efforts to surmount technological hurdles, and otherwise has been responsible for assisting in the improvement of industrial technology.

"(6) The Federal Government should maintain a national science, engineering, and technology laboratory which provides measurement methods, standards, and associated technologies and which aids United States companies in using new technologies to improve products and manufacturing processes.

"(7) Such national laboratory also should serve industry, trade associations, State technology programs, labor organizations, professional societies, and educational institutions by disseminating information on new basic technologies including automated manufacturing processes.

"(b) It is the purpose of this Act—

"(1) to rename the National Bureau of Standards as the National Institute of Standards and Technology and to modernize and restructure that agency to augment its unique ability to enhance the competitiveness of American industry while maintaining its traditional function as lead national laboratory for providing the measurements, calibrations, and quality assurance techniques which underpin United States commerce, technological progress, improved product reliability and manufacturing processes, and public safety;

"(2) to assist private sector initiatives to capitalize on advanced technology;

"(3) to advance, through cooperative efforts among industries, universities, and government laboratories, promising research and development projects, which can be optimized by the private sector for commercial and industrial applications; and

"(4) to promote shared risks, accelerated development, and pooling of skills which will be necessary to strengthen America's manufacturing industries.".

SEC. 5112. ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES.

(a) ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES OF THE INSTITUTE.—Section 2 of the Act of March 3, 1901 (15 U.S.C. 272) is amended to read as follows:

"ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES

National Institute of Standards and Technology.

"SEC. 2. (a) There is established within the Department of Commerce a science, engineering, technology, and measurement laboratory to be known as the National Institute of Standards and Technology (hereafter in this Act referred to as the 'Institute').

"(b) The Secretary of Commerce (hereafter in this Act referred to as the 'Secretary') acting through the Director of the Institute (hereafter in this Act referred to as the 'Director') and, if appropriate, through other officials, is authorized to take all actions necessary and appropriate to accomplish the purposes of this Act, including the following functions of the Institute—

"(1) to assist industry in the development of technology and procedures needed to improve quality, to modernize manufacturing processes, to ensure product reliability, manufacturability, functionality, and cost-effectiveness, and to facilitate the more rapid commercialization, especially by small- and medium-sized companies throughout the United States, of products based on new scientific discoveries in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies;

"(2) to develop, maintain, and retain custody of the national standards of measurement, and provide the means and methods for making measurements consistent with those standards, including comparing standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government;

"(3) to enter into contracts, including cooperative research and development arrangements, in furtherance of the purposes of this Act;

"(4) to provide United States industry, Government, and educational institutions with a national clearinghouse of current information, techniques, and advice for the achievement of higher quality and productivity based on current domestic and international scientific and technical development;

"(5) to assist industry in the development of measurements, measurement methods, and basic measurement technology;

"(6) to determine, compile, evaluate, and disseminate physical constants and the properties and performance of conventional and advanced materials when they are important to science, engineering, manufacturing, education, commerce, and industry and are not available with sufficient accuracy elsewhere;

"(7) to develop a fundamental basis and methods for testing materials, mechanisms, structures, equipment, and systems, including those used by the Federal Government;

"(8) to assure the compatibility of United States national measurement standards with those of other nations;

"(9) to cooperate with other departments and agencies of the Federal Government, with industry, with State and local governments, with the governments of other nations and international organizations, and with private organizations in establishing standard practices, codes, specifications, and voluntary consensus standards;

"(10) to advise government and industry on scientific and technical problems; and

"(11) to invent, develop, and (when appropriate) promote transfer to the private sector of measurement devices to serve special national needs.

"(c) In carrying out the functions specified in subsection (b), the Secretary, acting through the Director and, if appropriate, through other appropriate officials, may, among other things—

"(1) construct physical standards;

"(2) test, calibrate, and certify standards and standard measuring apparatus;

"(3) study and improve instruments, measurement methods, and industrial process control and quality assurance techniques;

"(4) cooperate with the States in securing uniformity in weights and measures laws and methods of inspection;

"(5) cooperate with foreign scientific and technical institutions to understand technological developments in other countries better;

"(6) prepare, certify, and sell standard reference materials for use in ensuring the accuracy of chemical analyses and measurements of physical and other properties of materials;

"(7) in furtherance of the purposes of this Act, accept research associates, cash donations, and donated equipment from industry, and also engage with industry in research to develop new basic and generic technologies for traditional and new products and for improved production and manufacturing;

"(8) study and develop fundamental scientific understanding and improved measurement, analysis, synthesis, processing, and fabrication methods for chemical substances and compounds, ferrous and nonferrous metals, and all traditional and advanced materials, including processes of degradation;

"(9) investigate ionizing and nonionizing radiation and radioactive substances, their uses, and ways to protect people, structures, and equipment from their harmful effects;

"(10) determine the atomic and molecular structure of matter, through analysis of spectra and other methods, to provide a basis for predicting chemical and physical structures and reactions and for designing new materials and chemical substances, including biologically active macromolecules;

"(11) perform research on electromagnetic waves, including optical waves, and on properties and performance of electrical, electronic, and electromagnetic devices and systems and their essential materials, develop and maintain related standards, and disseminate standard signals through broadcast and other means;

"(12) develop and test standard interfaces, communication protocols, and data structures for computer and related telecommunications systems;

"(13) study computer systems (as that term is defined in section 20(d) of this Act) and their use to control machinery and processes;

"(14) perform research to develop standards and test methods to advance the effective use of computers and related systems and to protect the information stored, processed, and transmitted by such systems and to provide advice in support of policies affecting Federal computer and related telecommunications systems;

"(15) determine properties of building materials and structural elements, and encourage their standardization and most effective use, including investigation of fire-resisting properties of building materials and conditions under which they may be most efficiently used, and the standardization of types of appliances for fire prevention;

"(16) undertake such research in engineering, pure and applied mathematics, statistics, computer science, materials science, and the physical sciences as may be necessary to carry out and support the functions specified in this section;

"(17) compile, evaluate, publish, and otherwise disseminate general, specific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere;

"(18) collect, create, analyze, and maintain specimens of scientific value;

"(19) operate national user facilities;

"(20) evaluate promising inventions and other novel technical concepts submitted by inventors and small companies and work with other Federal agencies, States, and localities to provide appropriate technical assistance and support for those inventions which are found in the evaluation process to have commercial promise;

"(21) demonstrate the results of the Institute's activities by exhibits or other methods of technology transfer, including the use of scientific or technical personnel of the Institute for part-time or intermittent teaching and training activities at educational institutions of higher learning as part of and incidental to their official duties; and

"(22) undertake such other activities similar to those specified in this subsection as the Director determines appropriate.".

15 USC 1532.

(b) OTHER FUNCTIONS OF SECRETARY.—The Secretary of Commerce is authorized to—

(1) conduct research on all of the telecommunications sciences, including wave propagation and reception, the conditions which affect electromagnetic wave propagation and reception, electromagnetic noise and interference, radio system characteristics, operating techniques affecting the use of the electromagnetic spectrum, and methods for improving the use of the electromagnetic spectrum for telecommunications purposes;

(2) prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in such conditions;

(3) investigate conditions which affect the transmission of radio waves from their source to a receiver and the compilation and distribution of information on such transmission of radio waves as a basis for choice of frequencies to be used in radio operations;

(4) conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies;

(5) investigate nonionizing electromagnetic radiation and its uses, as well as methods and procedures for measuring and assessing electromagnetic environments, for the purpose of developing and coordinating policies and procedures affecting Federal Government use of the electromagnetic spectrum for telecommunications purposes;

(6) compile, evaluate, publish, and otherwise disseminate general scientific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere; and

(7) undertake such other activities similar to those specified in this subsection as the Secretary of Commerce determines appropriate.

(c) DIRECTOR OF INSTITUTE.—(1) Section 5 of the Act of March 3, 1901 (15 U.S.C. 274) is amended to read as follows:

"SEC. 5. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have the general supervision of the Institute, its equipment, and the exercise of its functions. The Director shall make an annual report to the Secretary of Commerce. The Director may issue, when necessary, bulletins for public distribution, containing such information as may be of value to the public or facilitate the exercise of the functions of the Institute. The Director shall be compensated at the rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code. Until such time as the Director assumes office under this section, the most recent Director of the National Bureau of Standards shall serve as Director.". Reports.

(2) Section 5315 of title 5, United States Code, is amended by striking "National Bureau of Standards" and inserting in lieu thereof "National Institute of Standards and Technology".

15 USC 272 note.

(d) ORGANIZATION PLAN.—(1) At least 60 days before its effective date and within 120 days after the date of the enactment of this Act, an initial organization plan for the National Institute of Standards and Technology (hereafter in this part referred to as the "Institute") shall be submitted by the Director of the Institute (hereafter in this part referred to as the "Director") after consultation with the Visiting Committee on Advanced Technology, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such plan shall—

(A) establish the major operating units of the Institute;

(B) assign each of the activities listed in section 2(c) of the Act of March 3, 1901, and all other functions and activities of the

Institute, to at least one of the major operating units established under subparagraph (A);

(C) provide details of a 2-year program for the Institute, including the Advanced Technology Program;

(D) provide details regarding how the Institute will expand and fund the Inventions program in accordance with section 27 of the Act of March 3, 1901; and

(E) make no changes in the Center for Building Technology or the Center for Fire Research.

(2) The Director may revise the organization plan. Any revision of the organization plan submitted under paragraph (1) shall be submitted to the appropriate committees of the House of Representatives and the Senate at least 60 days before the effective date of such revision.

(3) Until the effective date of the organization plan, the major operating units of the Institute shall be the major operating units of the National Bureau of Standards that were in existence on the date of the enactment of this Act and the Advanced Technology Program.

SEC. 5113. REPEAL OF PROVISIONS.

The second paragraph of the material relating to the Bureau of Standards in the first section of the Act of July 16, 1914 (15 U.S.C. 280), the last paragraph of the material relating to Contingent and Miscellaneous Expenses in the first section of the Act of March 4, 1913 (15 U.S.C. 281), and the first section of the Act of May 14, 1930 (15 U.S.C. 282) are repealed.

SEC. 5114. REPORTS TO CONGRESS; STUDIES BY THE NATIONAL ACADEMIES OF ENGINEERING AND SCIENCES.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended—

15 USC 271 note. (1) by redesignating section 23 as section 31; and

(2) by adding after section 22 the following new sections:

"REPORTS TO CONGRESS

15 USC 278i. "SEC. 23. (a) The Director shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all of the activities of the Institute.

"(b) The Director shall justify in writing all changes in policies regarding fees for standard reference materials and calibration services occurring after June 30, 1987, including a description of the anticipated impact of any proposed changes on demand for and anticipated revenues from the materials and services. Changes in policy and fees shall not be effective unless and until the Director has submitted the proposed schedule and justification to the Congress and 30 days on which both Houses of Congress are in session have elapsed since such submission, except that the requirement of this sentence shall not apply with respect to adjustments which are based solely on changes in the costs of raw materials or of producing and delivering standard reference materials or calibration services.

"STUDIES BY THE NATIONAL RESEARCH COUNCIL

Contracts. 15 USC 278j. "SEC. 24. The Director may periodically contract with the National Research Council for advice and studies to assist the Institute to serve United States industry and science. The subjects of such advice and studies may include—

"(1) the competitive position of the United States in key areas of manufacturing and emerging technologies and research activities which would enhance that competitiveness;

"(2) potential activities of the Institute, in cooperation with industry and the States, to assist in the transfer and dissemination of new technologies for manufacturing and quality assurance; and

"(3) identification and assessment of likely barriers to widespread use of advanced manufacturing technology by the United States workforce, including training and other initiatives which could lead to a higher percentage of manufacturing jobs of United States companies being located within the borders of our country.".

SEC. 5115. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO ORGANIC ACT.—(1) Except as provided in paragraph (2), the Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended by striking "National Bureau of Standards", "Bureau" and "bureau" wherever they appear and inserting in lieu thereof "Institute".

(2) Section 31 of such Act, as so redesignated by section 5114(1) of this part, is amended by striking "National Bureau of Standards" and inserting in lieu thereof "National Institute of Standards and Technology". 15 USC 271 note.

(b) AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—(1) Section 8(b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122 of this part, is amended by striking "Director" and inserting in lieu thereof "Assistant Secretary". 15 USC 3706.

(2) Sections 11(e) and 17(d) and (e) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, are amended— 15 USC 3710, 3711a.

(A) by striking "National Bureau of Standards" wherever it appears and inserting in lieu thereof "National Institute of Standards and Technology"; and

(B) by striking "Bureau" wherever it appears and inserting in lieu thereof "Institute". 15 USC 3710.

(c) AMENDMENTS TO OTHER LAWS.—References in any other Federal law to the National Bureau of Standards shall be deemed to refer to the National Institute of Standards and Technology. 15 USC 271 note.

Subpart B—Technology Extension Activities and Clearinghouse on State and Local Initiatives

SEC. 5121. TECHNOLOGY EXTENSION ACTIVITIES.

(a) TECHNOLOGY CENTERS AND TECHNICAL ASSISTANCE.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 24 the following new sections:

"REGIONAL CENTERS FOR THE TRANSFER OF MANUFACTURING TECHNOLOGY

"SEC. 25. (a) The Secretary, through the Director and, if appropriate, through other officials, shall provide assistance for the creation and support of Regional Centers for the Transfer of Manu- 15 USC 278k.

facturing Technology (hereafter in this Act referred to as the 'Centers'). Such centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies for and is awarded financial assistance under this section in accordance with the description published by the Secretary in the Federal Register under subsection (c)(2). Individual awards shall be decided on the basis of merit review. The objective of the Centers is to enhance productivity and technological performance in United States manufacturing through—

"(1) the transfer of manufacturing technology and techniques developed at the Institute to Centers and, through them, to manufacturing companies throughout the United States;

Schools and colleges.

"(2) the participation of individuals from industry, universities, State governments, other Federal agencies, and, when appropriate, the Institute in cooperative technology transfer activities;

"(3) efforts to make new manufacturing technology and processes usable by United States-based small- and medium-sized companies;

"(4) the active dissemination of scientific, engineering, technical, and management information about manufacturing to industrial firms, including small- and medium-sized manufacturing companies; and

"(5) the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute.

"(b) The activities of the Centers shall include—

"(1) the establishment of automated manufacturing systems and other advanced production technologies, based on research by the Institute, for the purpose of demonstrations and technology transfer;

"(2) the active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and

"(3) loans, on a selective, short-term basis, of items of advanced manufacturing equipment to small manufacturing firms with less than 100 employees.

"(c)(1) The Secretary may provide financial support to any Center created under subsection (a) for a period not to exceed six years. The Secretary may not provide to a Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such Center.

Federal Register, publication.

"(2) The Secretary shall publish in the Federal Register, within 90 days after the date of the enactment of this section, a draft description of a program for establishing Centers, including—

"(A) a description of the program;

"(B) procedures to be followed by applicants;

"(C) criteria for determining qualified applicants;

"(D) criteria, including those listed under paragraph (4), for choosing recipients of financial assistance under this section from among the qualified applicants; and

"(E) maximum support levels expected to be available to Centers under the program in the fourth through sixth years of assistance under this section.

The Secretary shall publish a final description under this paragraph after the expiration of a 30-day comment period.

"(3) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on the date of the enactment of this section, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2). In order to receive assistance under this section, an applicant shall provide adequate assurances that it will contribute 50 percent or more of the proposed Center's capital and annual operating and maintenance costs for the first three years and an increasing share for each of the last three years. Each applicant shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities.

"(4) The Secretary shall subject each such application to merit review. In making a decision whether to approve such application and provide financial support under this subsection, the Secretary shall consider at a minimum (A) the merits of the application, particularly those portions of the application regarding technology transfer, training and education, and adaptation of manufacturing technologies to the needs of particular industrial sectors, (B) the quality of service to be provided, (C) geographical diversity and extent of service area, and (D) the percentage of funding and amount of in-kind commitment from other sources.

"(5) Each Center which receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials. An official of the Institute shall chair the panel. Each evaluation panel shall measure the involved Center's performance against the objectives specified in this section. The Secretary shall not provide funding for the fourth through the sixth years of such Center's operation unless the evaluation is positive. If the evaluation is positive, the Secretary may provide continued funding through the sixth year at declining levels, which are designed to ensure that the Center no longer needs financial support from the Institute by the seventh year. In no event shall funding for a Center be provided by the Department of Commerce after the sixth year of the operation of a Center.

"(6) The provisions of chapter 18 of title 35, United States Code, shall (to the extent not inconsistent with this section) apply to the promotion of technology from research by Centers under this section.

Appropriation authorization.

"(d) There are authorized to be appropriated for the purposes of carrying out this section, a combined total of not to exceed $40,000,000 for fiscal years 1989 and 1990. Such sums shall remain available until expended.

"ASSISTANCE TO STATE TECHNOLOGY PROGRAMS

15 USC 278*l*.

"Sec. 26. (a) In addition to the Centers program created under section 25, the Secretary, through the Director and, if appropriate, through other officials, shall provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small- and medium-sized businesses, to enhance their competitiveness through the application of science and technology.

"(b) Such assistance from the Institute to State technology programs shall include, but not be limited to—

"(1) technical information and advice from Institute personnel;

"(2) workshops and seminars for State officials interested in transferring Federal technology to businesses; and

Contracts.

"(3) entering into cooperative agreements when authorized to do so under this or any other Act.".

15 USC 278l note.

(b) TECHNOLOGY EXTENSION SERVICES.—(1) The Secretary shall conduct a nationwide study of current State technology extension services. The study shall include—

(A) a thorough description of each State program, including its duration, its annual budget, and the number and types of businesses it has aided;

(B) a description of any anticipated expansion of each State program and its associated costs;

(C) an evaluation of the success of the services in transferring technology, modernizing manufacturing processes, and improving the productivity and profitability of businesses;

(D) an assessment of the degree to which State services make use of Federal programs, including the Small Business Innovative Research program and the programs of the Federal Laboratory Consortium, the National Technical Information Service, the National Science Foundation, the Office of Productivity, Technology, and Innovation, and the Small Business Administration;

(E) a survey of what additional Federal information and technical assistance the services could utilize; and

(F) an assessment of how the services could be more effective agents for the transfer of Federal scientific and technical information, including the results and application of Federal and federally funded research.

The Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the time of submission of the organization plan for the Institute under section 5112(d)(1), the results of the study and an initial implementation plan for the programs under section 26 of the Act of March 3, 1901, and under this section. The implementation plan shall include methods of providing technical assistance to States and criteria for awarding financial assistance under this section. The Secretary may make use of contractors and experts for any or all of the studies and findings called for in this section.

Contracts.

(2)(A) The Institute shall enter into cooperative agreements with State technology extension services to—

(i) demonstrate methods by which the States can, in cooperation with Federal agencies, increase the use of Federal technology by businesses within their States to improve industrial competitiveness; or

(ii) help businesses in their States take advantage of the services and information offered by the Regional Centers for the Transfer of Manufacturing Technology created under section 25 of the Act of March 3, 1901.

(B) Any State, for itself or for a consortium of States, may submit to the Secretary an application for a cooperative agreement under this subsection, in accordance with procedures established by the Secretary. To qualify for a cooperative agreement under this subsection, a State shall provide adequate assurances that it will increase its spending on technology extension services by an amount at least equal to the amount of Federal assistance.

(C) In evaluating each application, the Secretary shall consider—

(i) the number and types of additional businesses that will be assisted under the cooperative agreement;

(ii) the extent to which the State extension service will demonstrate new methods to increase the use of Federal technology;

(iii) geographic diversity; and

(iv) the ability of the State to maintain the extension service after the cooperative agreement has expired.

(D) States which are party to cooperative agreements under this subsection may provide services directly or may arrange for the provision of any or all of such services by institutions of higher education or other non-profit institutions or organizations.

(3) In carrying out section 26 of the Act of March 3, 1901, and this subsection, the Secretary shall coordinate the activities with the Federal Laboratory Consortium; the National Technical Information Service; the National Science Foundation; the Office of Productivity, Technology, and Innovation; the Small Business Administration; and other appropriate Federal agencies.

Appropriation authorization.

(4) There are authorized to be appropriated for the purposes of this subsection $2,000,000 for each of the fiscal years 1989, 1990, and 1991.

Contracts. Termination date.

(5) Cooperative agreements entered into under paragraph (2) shall terminate no later than September 30, 1991.

15 USC 278*l* note.

(c) FEDERAL TECHNOLOGY TRANSFER ACT OF 1986.—Nothing in sections 25 or 26 of the Act of March 3, 1901, or in subsection (b) of this section shall be construed as limiting the authorities contained in the Federal Technology Transfer Act of 1986 (Public Law 99-502).

(d) NON-ENERGY INVENTIONS PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 26 the following new section:

"NON-ENERGY INVENTIONS PROGRAM

15 USC 278m.

"SEC. 27. In conjunction with the initial organization of the Institute, the Director shall establish a program for the evaluation of inventions that are not energy-related to complement but not replace the Energy-Related Inventions Program established under section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577). The Director shall submit an initial implementation plan for this program to accompany the organization plan for the Institute. The implementation plan shall include specific cost estimates, implementation schedules, and mechanisms to help finance the development of technologies the program has determined to have potential. In the preparation of the plan, the Director shall consult with appropriate Federal agencies, including the Small Business Administration and the Department of Energy, State and local government organizations, university officials, and private sector organizations in order to obtain advice on how those agencies and organizations might cooperate with the expansion of this program of the Institute.".

SEC. 5122. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

(a) CLEARINGHOUSE.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

15 USC 3705-3708, 3710-3710d, 3711, 3711a, 3712-3714.

(1) by redesignating sections 6 through 19 as sections 7 through 20, respectively; and

(2) by inserting after section 5 the following new section:

15 USC 3704a.

"SEC. 6. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

"(a) Establishment.—There is established within the Office of Productivity, Technology, and Innovation a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation. The Clearinghouse shall serve as a central repository of information on initiatives by State and local governments to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness.

"(b) Responsibilities.—The Clearinghouse may—

"(1) establish relationships with State and local governments, and regional and multistate organizations of such governments, which carry out such initiatives;

"(2) collect information on the nature, extent, and effects of such initiatives, particularly information useful to the Congress, Federal agencies, State and local governments, regional and multistate organizations of such governments, businesses, and the public throughout the United States;

"(3) disseminate information collected under paragraph (2) through reports, directories, handbooks, conferences, and seminars;

"(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;

"(5) study ways in which Federal agencies, including Federal laboratories, are able to use their existing policies and programs to assist State and local governments, and regional and multistate organizations of such governments, to enhance the competitiveness of American business;

"(6) make periodic recommendations to the Secretary, and to other Federal agencies upon their request, concerning modifications in Federal policies and programs which would improve Federal assistance to State and local technology and business assistance programs;

"(7) develop methodologies to evaluate State and local programs, and, when requested, advise State and local governments, and regional and multistate organizations of such governments, as to which programs are most effective in enhancing the competitiveness of American business through the stimulation of productivity, technology, and innovation; and

"(8) make use of, and disseminate, the nationwide study of State industrial extension programs conducted by the Secretary.

"(c) Contracts.—In carrying out subsection (b), the Secretary may enter into contracts for the purpose of collecting information on the nature, extent, and effects of initiatives.

"(d) Triennial Report.—The Secretary shall prepare and transmit to the Congress once each 3 years a report on initiatives by State and local governments to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation. The report shall include recommendations to the President, the Congress, and to Federal agencies on the appropriate Federal role in stimulating State and local efforts in this area. The first of these reports shall be transmitted to the Congress before January 1, 1989.".

(b) DEFINITION.—Section 4 of such Act is amended by adding at the end thereof the following new paragraph: 15 USC 3703.

"(13) 'Clearinghouse' means the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation established by section 6.".

(c) CONFORMING AMENDMENT.—Section 10(d) of such Act, as so redesignated by section 5122(a)(1) of this part, is amended by striking "6, 8, 10, 14, 16, or 17" and inserting in lieu thereof "7, 9, 11, 15, 17, or 18". 15 USC 3708.

Subpart C—Advanced Technology Program

SEC. 5131. ADVANCED TECHNOLOGY.

(a) ADVANCED TECHNOLOGY PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 27 the following new section:

"ADVANCED TECHNOLOGY PROGRAM

"SEC. 28. (a) There is established in the Institute an Advanced Technology Program (hereafter in this Act referred to as the 'Program') for the purpose of assisting United States businesses in creating and applying the generic technology and research results necessary to— 15 USC 278n.

"(1) commercialize significant new scientific discoveries and technologies rapidly; and

"(2) refine manufacturing technologies.

The Secretary, acting through the Director, shall assure that the Program focuses on improving the competitive position of the United States and its businesses, gives preference to discoveries and to technologies that have great economic potential, and avoids providing undue advantage to specific companies.

"(b) Under the Program established in subsection (a), and consistent with the mission and policies of the Institute, the Secretary, acting through the Director, and subject to subsections (c) and (d), may—

"(1) aid United States joint research and development ventures (hereafter in this section referred to as 'joint ventures') (which may also include universities and independent research organizations), including those involving collaborative technology demonstration projects which develop and test prototype equipment and processes, through—

"(A) provision of organizational and technical advice; and

"(B) participation in such joint ventures, if the Secretary, acting through the Director, determines participation to be appropriate, which may include (i) partial start-up funding, (ii) provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii) making available equipment, facilities, and personnel,

provided that emphasis is placed on areas where the Institute has scientific or technological expertise, on solving generic problems of specific industries, and on making those industries more competitive in world markets;

Contracts.

"(2) enter into contracts and cooperative agreements with United States businesses, especially small businesses, and with independent research organizations, provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;

"(3) involve the Federal laboratories in the Program, where appropriate, using among other authorities the cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980; and

"(4) carry out, in a manner consistent with the provisions of this section, such other cooperative research activities with joint ventures as may be authorized by law or assigned to the Program by the Secretary.

"(c) The Secretary, acting through the Director, is authorized to take all actions necessary and appropriate to establish and operate the Program, including—

Federal Register, publication.

"(1) publishing in the Federal Register draft criteria and, no later than six months after the date of the enactment of this section, following a public comment period, final criteria, for the selection of recipients of assistance under subsection (b) (1) and (2);

Reports.

"(2) monitoring how technologies developed in its research program are used, and reporting annually to the Congress on the extent of any overseas transfer of these technologies;

Contracts.

"(3) establishing procedures regarding financial reporting and auditing to ensure that contracts and awards are used for the purposes specified in this section, are in accordance with sound accounting practices, and are not funding existing or planned research programs that would be conducted in the same time period in the absence of financial assistance under the Program;

"(4) assuring that the advice of the Committee established under section 10 is considered routinely in carrying out the responsibilities of the Institute; and

"(5) providing for appropriate dissemination of Program research results.

Contracts.

"(d) When entering into contracts or making awards under subsection (b), the following shall apply:

"(1) No contract or award may be made until the research project in question has been subject to a merit review, and has, in the opinion of the reviewers appointed by the Director and the Secretary, acting through the Director, been shown to have scientific and technical merit.

"(2) In the case of joint ventures, the Program shall not make an award unless, in the judgment of the Secretary, acting through the Director, Federal aid is needed if the industry in question is to form a joint venture quickly.

"(3) No Federal contract or cooperative agreement under subsection (b)(2) shall exceed $2,000,000 over 3 years, or be for more than 3 years unless a full and complete explanation of such proposed award, including reasons for exceeding these limits, is submitted in writing by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The proposed contract or cooperative agreement may be executed only after 30 calendar days on which both Houses of Congress are in session have elapsed since such submission. Federal funds made available under subsection (b)(2) shall be used only for direct costs and not for indirect costs, profits, or management fees of the contractor.

"(4) In determining whether to make an award to a particular joint venture, the Program shall consider whether the members of the joint venture have made provisions for the appropriate participation of small United States businesses in such joint venture.

Classified information.

"(5) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of any business or any joint venture receiving funding under the Program—

"(A) information on the business operation of any member of the business or joint venture; and

"(B) trade secrets possessed by any business or any member of the joint venture.

Intellectual property. Classified information.

"(6) Intellectual property owned and developed by any business or joint venture receiving funding or by any member of such a joint venture may not be disclosed by any officer or employee of the Federal Government except in accordance with a written agreement between the owner or developer and the Program.

"(7) The Federal Government shall be entitled to a share of the licensing fees and royalty payments made to and retained by any business or joint venture to which it contributes under this section in an amount proportional to the Federal share of the costs incurred by the business or joint venture as determined by independent audit.

"(8) If a business or joint venture fails before the completion of the period for which a contract or award has been made, after all allowable costs have been paid and appropriate audits conducted, the unspent balance of the Federal funds shall be returned by the recipient to the Program.

"(9) Upon dissolution of any joint venture or at the time otherwise agreed upon, the Federal Government shall be entitled to a share of the residual assets of the joint venture proportional to the Federal share of the costs of the joint venture as determined by independent audit.

"(e) As used in this section, the term 'joint research and development venture' has the meaning given to such term in section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6)).".

(b) VISITING COMMITTEE ON ADVANCED TECHNOLOGY.—Section 10 of the Act of March 3, 1901, is amended to read as follows:

"VISITING COMMITTEE ON ADVANCED TECHNOLOGY

Establishment. 15 USC 278.

"SEC. 10. (a) There is established within the Institute a Visiting Committee on Advanced Technology (hereafter in this Act referred to as the 'Committee'). The Committee shall consist of nine members appointed by the Director, at least five of whom shall be from United States industry. The Director shall appoint as original members of the Committee any final members of the National Bureau of Standards Visiting Committee who wish to serve in such capacity. In addition to any powers and functions otherwise granted to it by this Act, the Committee shall review and make recommendations regarding general policy for the Institute, its organization, its budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress.

"(b) The persons appointed as members of the Committee—

"(1) shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations;

"(2) shall be selected solely on the basis of established records of distinguished service;

"(3) shall not be employees of the Federal Government; and

"(4) shall be so selected as to provide representation of a cross-section of the traditional and emerging United States industries.

The Director is requested, in making appointments of persons as members of the Committee, to give due consideration to any recommendations which may be submitted to the Director by the National Academies, professional societies, business associations, labor associations, and other appropriate organizations.

"(c)(1) The term of office of each member of the Committee, other than the original members, shall be 3 years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person who has completed two consecutive full terms of service on the Committee shall thereafter be ineligible for appointment during the one-year period following the expiration of the second such term.

"(2) The original members of the Committee shall be elected to three classes of three members each; one class shall have a term of one year, one a term of two years, and the other a term of three years.

"(d) The Committee shall meet at least quarterly at the call of the Chairman or whenever one-third of the members so request in writing. A majority of the members of the Committee not having a conflict of interest in the matter being considered by the Committee shall constitute a quorum. Each member shall be given appropriate notice, whenever possible, not less than 15 days prior to any meeting, of the call of such meeting.

"(e) The Committee shall have an executive committee, and may delegate to it or to the Secretary such of the powers and functions granted to the Committee by this Act as it deems appropriate. The Committee is authorized to appoint from among its members such other committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Committee deems appropriate to assist it in exercising its powers and functions under this Act.

"(f) The election of the Chairman and Vice Chairman of the Committee shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Committee shall elect a member to fill such vacancy.

"(g) The Committee may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than four professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director, after consultation with the Chairman of the Committee, and assigned at the direction of the Committee. The professional members of such staff may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 of title 5 of such Code relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-18 of the General Schedule under section 5332 of title 5 of such Code, as may be necessary to provide for the performance of such duties as may be prescribed by the Committee in connection with the exercise of its powers and functions under this Act.

Reports.

"(h)(1) The Committee shall render an annual report to the Secretary for submission to the Congress on or before January 31 in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute, including the Program established under section 28, or with which the Committee in its official role as the private sector policy advisor of the Institute is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, in which the Institute possesses special competence, which could be used to assist United States enterprises and United States industrial joint research and development ventures.

Reports.

"(2) The Committee shall render to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.".

Contracts.
15 USC 278n note.

(c) National Academies of Sciences and Engineering Study of Government-Industry Cooperation in Civilian Technology.—(1) Within 90 days after the date of enactment of this Act, the Secretary of Commerce shall enter into contracts with the National Academies of Sciences and Engineering for a thorough review of the various types of arrangements under which the private sector in the United States and the Federal Government cooperate in civilian research and technology transfer, including activities to create or apply generic, nonproprietary technologies. The purpose of the review is to provide the Secretary and Congress with objective information regarding the uses, strengths, and limitations of the various types of cooperative technology arrangements that have been used in the United States. The review is to provide both an analysis of the ways in which these arrangements can help improve the technological performance and international competitiveness of United States industry, and also to provide the Academies' recommendations regarding ways to improve the effectiveness and efficiency of these types of cooperative arrangements. A special emphasis shall be placed on discussions of these subjects among industry leaders, labor leaders, and officials of the executive branch and Congress. The Secretary is authorized to seek and accept funding for this study from both Federal agencies and private industry.

(2) The members of the review panel shall be drawn from among industry and labor leaders, entrepreneurs, former government officials with great experience in civilian research and technology, and scientific and technical experts, including experts with experience with Federal laboratories.

(3) The review shall analyze the strengths and weaknesses of different types of Federal-industry cooperative arrangements in civilian technology, including but not limited to—

(A) Federal programs which provide technical services and information to United States companies;

(B) cooperation between Federal laboratories and United States companies, including activities under the Technology Share Program created by Executive Order 12591;

(C) Federal research and technology transfer arrangements with selected business sectors;

(D) Federal encouragement of, and assistance to, private joint research and development ventures; and

(E) such other mechanisms of Federal-industry cooperation as may be identified by the Secretary.

Reports.

(4) A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contracts with the National Academies of Sciences and Engineering.

Subpart D—Technology Reviews

SEC. 5141. REPORT OF PRESIDENT.

The President shall, at the time of submission of the budget request for fiscal year 1990 to Congress, also submit to the Congress a report on—

(1) the President's policies and budget proposals regarding Federal research in semiconductors and semiconductor manufacturing technology, including a discussion of the respective roles of the various Federal departments and agencies in such research;

(2) the President's policies and budget proposals regarding Federal research and acquisition policies for fiber optics and optical-electronic technologies generally;

(3) the President's policies and budget proposals, identified by agency, regarding superconducting materials, including descriptions of research priorities, the scientific and technical barriers to commercialization which such research is designed to overcome, steps taken to ensure coordination among Federal agencies conducting research on superconducting materials, and steps taken to consult with private United States industry and to ensure that no unnecessary duplication of research exists and that all important scientific and technical barriers to the commercialization of superconducting materials will be addressed; and

(4) the President's policies and budget proposals, identified by agency, regarding Federal research to assist United States industry to develop and apply advanced manufacturing technologies for the production of durable and nondurable goods.

National Advisory Committee on Semiconductor Research and Development Act of 1988.
15 USC 4632.

SEC. 5142. SEMICONDUCTOR RESEARCH AND DEVELOPMENT.

(a) Short Title.—This section may be cited as the "National Advisory Committee on Semiconductor Research and Development Act of 1988".

(b) Findings and Purposes.—(1) The Congress finds and declares that—

(A) semiconductor technology is playing an ever-increasing role in United States industrial and commercial products and processes, making secure domestic sources of state-of-the-art semiconductors highly desirable;

(B) modern weapons systems are highly dependent on leading edge semiconductor devices, and it is counter to the national security interest to be heavily dependent upon foreign sources for this technology;

(C) governmental responsibilities related to the semiconductor industry are divided among many Federal departments and agencies; and

(D) joint industry-government consideration of semiconductor industry problems is needed at this time.

(2) The purposes of this section are—

(A) to establish the National Advisory Committee on Semiconductors; and

(B) to assign to such Committee the responsibility for devising and promulgating a national semiconductor strategy, including research and development, the implementation of which will assure the continued leadership of the United States in semiconductor technology.

(c) Creation of Committee.—There is hereby created in the executive branch of the Government an independent advisory body to be known as the National Advisory Committee on Semiconductors (hereafter in this section referred to as the "Committee").

(d) Functions.—(1) The Committee shall—

(A) collect and analyze information on the needs and capabilities of industry, the Federal Government, and the scientific and research communities related to semiconductor technology;

(B) identify the components of a successful national semiconductor strategy in accordance with subsection (b)(2)(B);

(C) analyze options, establish priorities, and recommend roles for participants in the national strategy;

(D) assess the roles for government and national laboratories and other laboratories supported largely for government purposes in contributing to the semiconductor technology base of the Nation, as well as to access the effective use of the resources of United States private industry, United States universities, and private-public research and development efforts; and

(E) provide results and recommendations to agencies of the Federal Government involved in legislative, policymaking, administrative, management, planning, and technology activities that affect or are part of a national semiconductor strategy, and to the industry and other nongovernmental groups or organizations affected by or contributing to that strategy.

(2) In fulfilling this responsibility, the Committee shall—

(A) monitor the competitiveness of the United States semiconductor technology base;

(B) determine technical areas where United States semiconductor technology is deficient relative to international competition;

(C) identify new or emerging semiconductor technologies that will impact the national defense or United States competitiveness or both;

(D) develop research and development strategies, tactics, and plans whose execution will assure United States semiconductor competitiveness; and

(E) recommend appropriate actions that support the national semiconductor strategy.

(e) Membership and Procedures.—(1)(A) The Committee shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of the Office of Science and

Technology Policy, and the Director of the National Science Foundation, or their designees, shall serve as members of the Committee.

President of U.S.

(C) The President, acting through the Director of the Office of Science and Technology Policy, shall appoint, as additional members of the Committee, 4 members from outside the Federal Government who are eminent in the semiconductor industry, and 4 members from outside the Federal Government who are eminent in the fields of technology, defense, and economic development.

(D) One of the members appointed under subparagraph (C), as designated by the President at the time of appointment, shall be chairman of the Committee.

(2) Funding and administrative support for the Committee shall be provided to the Office of Science and Technology Policy through an arrangement with an appropriate agency or organization designated by the Committee, in accordance with a memorandum of understanding entered into between them.

(3) Members of the Committee, other than full-time employees of the Federal Government, while attending meetings of the Committee or otherwise performing duties at the request of the Chairman while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(4) The Chairman shall call the first meeting of the Committee not later than 90 days after the date of the enactment of this Act.

Reports.

(5) At the close of each fiscal year the Committee shall submit to the President and the Congress a report on its activities conducted during such year and its planned activities for the coming year, including specific findings and recommendations with respect to the national semiconductor strategy devised and promulgated under subsection (b)(2)(B). The first report shall include an analysis of those technical areas, including manufacturing, which are of importance to the United States semiconductor industry, and shall make specific recommendations regarding the appropriate Federal role in correcting any deficiencies identified by the analysis. Each report shall include an estimate of the length of time the Committee must continue before the achievement of its purposes and the issuance of its final report.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for the fiscal years 1988, 1989, and 1990.

30 USC 1803 note

SEC. 5143. REVIEW OF RESEARCH AND DEVELOPMENT PRIORITIES IN SUPERCONDUCTORS.

President of U.S.

(a) NATIONAL COMMISSION ON SUPERCONDUCTIVITY.—The President shall appoint a National Commission on Superconductivity to review all major policy issues regarding United States applications of recent research advances in superconductors in order to assist the Congress in devising a national strategy, including research and development priorities, the development of which will assure United States leadership in the development and application of superconducting technologies.

(b) MEMBERSHIP.—The membership of the National Commission on Superconductivity shall include representatives of—

(1) the National Critical Materials Council, the National Academy of Sciences, the National Academy of Engineering, the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Depart-

ment of Justice, the Department of Commerce (including the National Institute of Standards and Technology), the Department of Transportation, the Department of the Treasury, and the Department of Defense;

(2) organizations whose membership is comprised of physicists, engineers, chemical scientists, or material scientists; and

(3) industries, universities, and national laboratories engaged in superconductivity research.

(c) CHAIRMAN.—A representative of the private sector shall be designated as chairman of the Commission.

(d) COORDINATION.—The National Critical Materials Council shall be the coordinating body of the National Commission on Superconductivity and shall provide staff support for the Commission.

(e) REPORT.—Within 6 months after the date of the enactment of this Act, the National Commission on Superconductivity shall submit a report to the President and the Congress with recommendations regarding methods of enhancing the research, development, and implementation of improved superconductor technologies in all major applications.

(f) SCOPE OF REVIEW.—In preparing the report required by subsection (e), the Commission shall consider addressing, but need not limit, its review to—

(1) the state of United States competitiveness in the development of improved superconductors;

(2) methods to improve and coordinate the collection and dissemination of research data relating to superconductivity;

(3) methods to improve and coordinate funding of research and development of improved superconductors;

(4) methods to improve and coordinate the development of viable commercial and military applications of improved superconductors;

(5) foreign government activities designed to promote research, development, and commercial application of improved superconductors;

(6) the need to provide increased Federal funding of research and development of improved superconductors;

(7) the impact on the United States national security if the United States must rely on foreign producers of superconductors;

(8) the benefit, if any, of granting private companies partial exemptions from United States antitrust laws to allow them to coordinate research, development, and products containing improved superconductors;

(9) options for providing income tax incentives for encouraging research, development, and production in the United States of products containing improved superconductors; and

(10) methods to strengthen domestic patent and trademark laws to ensure that qualified superconductivity discoveries receive the fullest protection from infringement.

Termination date.

(g) SUNSET.—The Commission shall disband within a year of its establishment. Thereafter the National Critical Materials Council may review and update the report required by subsection (e) and make further recommendations as it deems appropriate.

Subpart E—Authorization of Appropriations

SEC. 5151. AUTHORIZATION OF APPROPRIATIONS FOR TECHNOLOGY ACTIVITIES.

(a) Authorization of Appropriations.—There are authorized to be appropriated for fiscal year 1988 to the Secretary of Commerce to carry out activities performed by the Institute the sums set forth in the following line items:

(1) Measurement Research and Technology: $41,939,000.

(2) Engineering Measurements and Manufacturing: $40,287,000.

(3) Materials Science and Engineering: $23,521,000.

(4) Computer Science and Technology: $7,941,000.

(5) Research Support Activities: $19,595,000.

(6) Cold Neutron Source Facility: $6,500,000 (for a total authorization of $13,000,000).

(7) Programs established under sections 25, 26, and 27 of the Act of March 3, 1901 and section 5121 of this part: $5,000,000.

(b) Limitations.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (1) of subsection (a) of this section, $3,550,000 is authorized only for the purpose of research in process and quality control;

(3) of the amount authorized under paragraph (2) of subsection (a) of this section, $3,710,000 is authorized only for the Center for Building Technology, $5,662,000 is authorized only for the Center for Fire Research, and the two Centers shall not be merged;

(4) of the amount authorized under paragraph (3) of subsection (a) of this section, $1,500,000 is authorized only for the purpose of research to improve high-performance composites; and

(5) of the amount authorized under paragraph (5) of subsection (a) of this section, $7,371,000 is authorized only for technical competence fund projects in new areas of high technical importance, and $1,091,000 is authorized only for the Postdoctoral Research Associates Program and related new personnel.

(c) Transfer.—(1) Funds may be transferred among the line items listed in subsection (a) of this section so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary of Commerce may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a) of this section, but a full and complete explanation of any such proposed transfer and the reason for such transfer must be transmitted in writing to the President of the Senate, the Speaker of the House of Representatives, and the appropriate authorizing committees of the Senate and House of Representatives. The proposed transfer may be made only when 30 calendar days have passed after the transmission of such written explanation.

(d) **Cold Neutron Source Facility.**—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal years 1988, 1989, and 1990 such sums as were authorized but not appropriated for the Cold Neutron Source Facility for fiscal year 1987. Furthermore, the Secretary may accept contributions for funds, to remain available until expended, for the design, construction, and equipment of the Cold Neutron Source Facility, notwithstanding the limitations of section 14 of the Act of March 3, 1901 (15 U.S.C. 278d).

Gifts and property.

(e) **Employee Benefit Adjustments.**—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1988 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

(f) **Availability.**—Appropriations made under the authority provided in this section shall remain available for obligation, for expenditure, or for obligations and expenditure for periods specified in the Acts making such appropriations.

SEC. 5152. STEVENSON-WYDLER ACT AUTHORIZATIONS.

15 USC 3713.

Section 19 (a) and (b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended to read as follows:

"(a)(1) There is authorized to be appropriated to the Secretary for the purposes of carrying out sections 5, 11(g), and 16 of this Act not to exceed $3,400,000 for the fiscal year ending September 30, 1988.

"(2) Of the amount authorized under paragraph (1) of this subsection, $2,400,000 is authorized only for the Office of Productivity, Technology, and Innovation; $500,000 is authorized only for the purpose of carrying out the requirements of the Japanese technical literature program established under section 5(d) of this Act; and $500,000 is authorized only for the patent licensing activities of the National Technical Information Service.

"(b) In addition to the authorization of appropriations provided under subsection (a) of this section, there is authorized to be appropriated to the Secretary for the purposes of carrying out section 6 of this Act not to exceed $500,000 for the fiscal year ending September 30, 1988, $1,000,000 for the fiscal year ending September 30, 1989, and $1,500,000 for the fiscal year ending September 30, 1990.".

Subpart F—Miscellaneous Technology and Commerce Provisions

SEC. 5161. SAVINGS PROVISION AND USER FEES.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.), as amended by this part, is further amended by adding after section 28 the following new sections:

"SAVINGS PROVISION

Contracts.
15 USC 271 note.

"Sec. 29. All rules and regulations, determinations, standards, contracts, certifications, authorizations, delegations, results and findings of investigations, or other actions duly issued, made, or taken by or pursuant to this Act, or under the authority of any other statutes which resulted in the assignment of functions or activities to the Secretary, the Department, the Director, or the Institute, as are in effect immediately before the date of enactment of this section, and not suspended by the Secretary, the Director, the Institute or the courts, shall continue in full force and effect after the date of enactment of this section until modified or rescinded.

"USER FEES

15 USC 278o.

"SEC. 30. The Institute shall not implement a policy of charging fees with respect to the use of Institute research facilities by research associates in the absence of express statutory authority to charge such fees.".

SEC. 5162. MISCELLANEOUS AMENDMENTS TO THE STEVENSON-WYDLER ACT.

(a) INVENTION MANAGEMENT SERVICES.—The first sentence of section 14(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710c) is amended by striking out "shall" and inserting in lieu thereof "may", and by striking out "such invention performed at the request of the other agency or laboratory" and inserting in lieu thereof "any invention of the other agency".

(b) FEDERAL LABORATORY CONSORTIUM.—Section 11(e)(7)(A) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710) is amended by striking out "0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by" and inserting in lieu thereof "0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of".

SEC. 5163. MISCELLANEOUS TECHNOLOGY AND COMMERCE PROVISIONS.

15 USC 282a.

(a) ASSESSMENT OF EMERGING TECHNOLOGIES.—The Board of Assessment of the National Institute of Standards and Technology shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Institute abreast of its mission, including process and quality control, engineering databases, advanced materials, electronics and fiber optics, bioprocess engineering, and advanced computing concepts. Such review shall include estimates of the cost of the required effort, required staffing levels, appropriate interaction with industry, including technology transfer, and the period over which the research will be required.

15 USC 272 note.

(b) SMALL BUSINESS PLAN.—The Director of the National Institute of Standards and Technology shall prepare a plan detailing the manner in which the Institute will make small businesses more aware of the Institute's activities and research, and the manner in which the Institute will seek to increase the application by small businesses of the Institute's research, particularly in manufacturing. The plan shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than 120 days after the date of the enactment of this Act.

15 USC 3710.

(c) NATIONAL TECHNICAL INFORMATION SERVICE.—(1) Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended by inserting at the end the following new subsection:

"(h) None of the activities or functions of the National Technical Information Service which are not performed by contractors as of September 30, 1987, shall be contracted out or otherwise transferred from the Federal Government unless such transfer is expressly authorized by statute, or unless the value of all work performed under the contract and related contracts in each fiscal year does not exceed $250,000.". Contracts.

(2) The Secretary of Commerce shall report the Secretary's recommendations for improvements in the National Technical Information Service (including methods for automating document distribution and inventory control), and any statutory changes required to make such improvements, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives by January 31, 1989. Reports.

(3) Section 11(d) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended— 15 USC 3710.

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.".

(d) FELLOWSHIP PROGRAM.—There is established within the Department of Commerce a Commerce, Science, and Technology Fellowship Program with the stated purpose of providing a select group of employees of the executive branch of the Government with the opportunity of learning how the legislative branch and other parts of the executive branch function through work experiences of up to one year. The Secretary of Commerce shall report to the Congress within six months after the date of enactment of this Act on the Department of Commerce's plans for implementing such Program by March 31, 1989. 15 USC 1533. Reports.

SEC. 5164. METRIC USAGE.

(a) FINDINGS.—Section 2 of the Metric Conversion Act of 1975 is amended by adding at the end thereof the following new paragraphs: 15 USC 205a.

"(3) World trade is increasingly geared towards the metric system of measurement.

"(4) Industry in the United States is often at a competitive disadvantage when dealing in international markets because of its nonstandard measurement system, and is sometimes excluded when it is unable to deliver goods which are measured in metric terms.

"(5) The inherent simplicity of the metric system of measurement and standardization of weights and measures has led to major cost savings in certain industries which have converted to that system.

"(6) The Federal Government has a responsibility to develop procedures and techniques to assist industry, especially small business, as it voluntarily converts to the metric system of measurement.

"(7) The metric system of measurement can provide substantial advantages to the Federal Government in its own operations.".

15 USC 205b.

(b) POLICY.—Section 3 of the Metric Conversion Act of 1975 is amended to read as follows:

"SEC. 3. It is therefore the declared policy of the United States—

"(1) to designate the metric system of measurement as the preferred system of weights and measures for United States trade and commerce;

"(2) to require that each Federal agency, by a date certain and to the extent economically feasible by the end of the fiscal year 1992, use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units;

"(3) to seek out ways to increase understanding of the metric system of measurement through educational information and guidance and in Government publications; and

"(4) to permit the continued use of traditional systems of weights and measures in nonbusiness activities.".

(c) IMPLEMENTATION.—The Metric Conversion Act of 1975 is further amended by redesignating section 12 as section 13, and by inserting after section 11 the following new section:

15 USC 205k.

Reports.
15 USC 205j-1.

"SEC. 12. (a) As soon as possible after the date of the enactment of this section, each agency of the Federal Government shall establish guidelines to carry out the policy set forth in section 3 (with particular emphasis upon the policy set forth in paragraph (2) of that section), and as part of its annual budget submission for each fiscal year beginning after such date shall report to the Congress on the actions which it has taken during the previous fiscal year, as well as the actions which it plans for the fiscal year involved, to implement fully the metric system of measurement in accordance with that policy. Such reporting shall cease for an agency in the fiscal year after it has fully implemented its efforts under section 3(2). As used in this section, the term 'agency of the Federal Government' means an Executive agency or military department as those terms as defined in chapter 1 of title 5, United States Code.

"(b) At the end of the fiscal year 1992, the Comptroller General shall review the implementation of this Act, and upon completion of such review shall report his findings to the Congress along with any legislative recommendations he may have.".

PART II—SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH

SEC. 5171. SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH.

(a) Section 502 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656b) is amended by adding at the end the following new paragraph:

"(5) Federally supported international science and technology agreements should be negotiated to ensure that—

Intellectual property.

"(A) intellectual property rights are properly protected; and

"(B) access to research and development opportunities and facilities, and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.".

(b) Section 503(b) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c(b)) is amended—

(1) by striking "Congress" and inserting in lieu thereof "the Speaker of the House of Representatives and the Committees on Foreign Relations and Governmental Affairs of the Senate";

(2) by inserting "information and" before "recommendations";

(3) by striking "and" at the end of paragraph (1);

(4) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(5) by adding at the end the following new paragraph:

"(3) equity of access by United States public and private entities to public (and publicly supported private) research and development opportunities and facilities in each country which is a major trading partner of the United States.".

(c) Section 503 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c) is amended by adding at the end the following new subsection:

"(d)(1) The information and recommendations developed under subsection (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

President of U.S.

"(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees as he may consider necessary.".

(d) Section 504(a) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656d(a)) is amended to read as follows:

"(a)(1) In order to implement the policies set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

"(2) In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 503(b); (C) possible commercial or trade linkages with the United States which may flow from the agreement or activity; (D) national security concerns; and (E) any other factors deemed appropriate.

"(3) Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies responsible for—

"(A) Federal technology management policies set forth by Public Law 96-517 and the Stevenson-Wydler Technology Innovation Act of 1980;

Defense and national security.

"(B) national security policies;

"(C) United States trade policies; and

"(D) relevant Executive orders,

with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.".

PART III—NATIONAL CRITICAL MATERIALS COUNCIL

30 USC 1804 note.

SEC. 5181. THE NATIONAL FEDERAL PROGRAM PLAN FOR ADVANCED MATERIALS RESEARCH AND DEVELOPMENT.

The National Critical Materials Council shall prepare the national Federal program plan for advanced materials research and development under section 205(a)(1)(A) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1251) and shall submit such plan to Congress not later than 180 days after the date of the enactment of this Act. The plan shall be submitted to the Committee on Science, Space, and Technology, as well as other appropriate committees, of the House of Representatives, and to the Committee on Governmental Affairs, as well as other appropriate committees, of the Senate.

30 USC 1807 note.

SEC. 5182. PERSONNEL MATTERS.

(a) Requirement To Increase Staff.—Not later than 30 days after the date of the enactment of this Act, the Executive Director of the National Critical Materials Council shall increase the number of employees of the Council by the equivalent of 5 full-time employees over the number of employees of the Council on the date of the enactment of this Act.

(b) Qualifications of Staff.—Not less than the equivalent of 4 full-time employees appointed pursuant to subsection (a) shall be permanent professional employees who have expertise in technical fields that are relevant to the responsibilities of the National Critical Materials Council, such as materials science and engineering, environmental matters, minerals and natural resources, ceramic or composite engineering, metallurgy, and geology.

SEC. 5183. AUTHORITY TO ACCEPT SERVICES AND PERSONNEL FROM OTHER FEDERAL AGENCIES.

30 USC 1809.

Section 210(4) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out "reimbursable" and inserting in lieu thereof "nonreimbursable".

SEC. 5184. AUTHORIZATION OF APPROPRIATIONS.

30 USC 1810.

Section 211 of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out "1990" and inserting in lieu thereof "1992".

Competitiveness Policy Council Act.

Subtitle C—Competitiveness Policy Council Act

15 USC 4801 note.

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Competitiveness Policy Council Act".

SEC. 5202. FINDINGS AND PURPOSES. 15 USC 4801.

(a) FINDINGS.—The Congress finds that—

(1) efforts to reverse the decline of United States industry has been hindered by—

(A) a serious erosion in the institutions and policies which foster United States competitiveness including a lack of high quality domestic and international economic and scientific data needed to—

(i) reveal sectoral strengths and weaknesses;

(ii) identify potential new markets and future technological and economic trends; and

(iii) provide necessary information regarding the competitive strategies of foreign competitors;

(B) the lack of a coherent and consistent government competitiveness policy, including policies with respect to—

(i) international trade, finance, and investment,

(ii) research, science, and technology,

(iii) education, labor retraining, and adjustment,

(iv) macroeconomic and budgetary issues,

(v) antitrust and regulation, and

(vi) government procurement;

(2) the United States economy benefits when business, labor, government, academia, and public interest groups work together cooperatively;

(3) the decline of United States economic competitiveness endangers the ability of the United States to maintain the defense industrial base which is necessary to the national security of the United States;

(4) the world is moving rapidly toward the creation of an integrated and interdependent economy, a world economy in which the policies of one nation have a major impact on other nations;

(5) integrated solutions to such issues as trade and investment research, science, and technology, education, and labor retraining and adjustments help the United States compete more effectively in the world economy; and

(6) government, business, labor, academia, and public interest groups shall cooperate to develop and coordinate long-range strategies to help assure the international competitiveness of the United States economy.

(b) PURPOSE.—It is the purpose of this subtitle—

(1) to develop recommendations for long-range strategies for promoting the international competitiveness of the United States industries; and

(2) to establish the Competitiveness Policy Council which shall—

(A) analyze information regarding the competitiveness of United States industries and business and trade policy;

(B) create an institutional forum where national leaders with experience and background in business, labor, government, academia, and public interest activities shall—

(i) identify economic problems inhibiting the competitiveness of United States agriculture, business, and industry; Agriculture and agricultural commodities.

(ii) develop long-term strategies to address such problem; and

(C) make recommendations on issues crucial to the development of coordinated competitiveness strategies;

(D) publish analysis in the form of periodic reports and recommendations concerning the United States business and trade policy.

15 USC 4802.

SEC. 5203. COUNCIL ESTABLISHED.

There is established the Competitiveness Policy Council (hereafter in this subtitle referred to as the "Council"), an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

15 USC 4803.

SEC. 5204. DUTIES OF THE COUNCIL.

The Council shall—

(1) develop recommendations for national strategies and on specific policies intended to enhance the productivity and international competitiveness of United States industries;

(2) provide comments, when appropriate, and through any existing comment procedure, on—

(A) private sector requests for governmental assistance or relief, specifically as to whether the applicant is likely, by receiving the assistance or relief, to become internationally competitive; and

(B) what actions should be taken by the applicant as a condition of such assistance or relief to ensure that the applicant is likely to become internationally competitive;

(3) analyze information concerning current and future United States economic competitiveness useful to decision making in government and industry;

(4) create a forum where national leaders with experience and background in business, labor, academia, public interest activities, and government shall identify and develop recommendations to address problems affecting the economic competitiveness of the United States;

(5) evaluate Federal policies, regulations, and unclassified international agreement on trade, science, and technology to which the United States is a party with respect to the impact on United States competitiveness;

(6) provide policy recommendations to the Congress, the President, and the Federal departments and agencies regarding specific issues concerning competitiveness strategies;

(7) monitor the changing nature of research, science, and technology in the United States and the changing nature of the United States economy and its capacity—

(A) to provide marketable, high quality goods and services in domestic and international markets; and

(B) to respond to international competition;

(8) identify—

(A) Federal and private sector resources devoted to increased competitiveness; and

(B) State and local government programs devised to enhance competitiveness, including joint ventures between universities and corporations;

(9) establish, when appropriate, subcouncils of public and private leaders to develop recommendations on long-term strategies for sectors of the economy and for specific competitiveness issues;

(10) review policy recommendations developed by the subcouncils and transmit such recommendations to the Federal agencies responsible for the implementation of such recommendations;

(11) prepare, publish, and distribute reports containing the recommendations of the Council; and

Reports.

(12) publish their analysis and recommendations in the form of an annual report to the President and the Congress which also comments on the overall competitiveness of the American economy.

SEC. 5205. MEMBERSHIP.

15 USC 4804.

(a) COMPOSITION AND REPRESENTATION.—

(1) The Council shall consist of 12 members, of whom—

(A) four members shall be appointed by the President, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader who has been active in public interest activities; and

(iv) one shall be a head of a Federal department or agency;

(B) four members shall be appointed by the majority leader and the minority leader of the Senate, acting jointly, of whom—

(i) one shall be a national leader with experience or background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government; and

(C) four members shall be appointed by the Speaker, the minority leader of the House of Representatives, acting jointly, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government.

(2) In addition to the head of a Federal department or agency appointed in accordance with subsection (a)(1)(A)(iv), other Federal officials may participate on an ex-officio basis as requested by the Council.

(3) All members of the Council shall be individuals who have a broad understanding of the United States economy and the United States competitive position internationally.

(4) Not more than 6 members of the Council shall be members of the same political party.

(b) INITIAL APPOINTMENTS.—The initial members of the Council shall be appointed within 30 days after January 21, 1989.

(c) VACANCIES.—

(1) A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy on the Council occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(3) A member of the Council may serve after the expiration of the term of such member until the successor of such member has taken office.

(d) REMOVAL.—Members of the Council may be removed only for malfeasance in office.

(e) CONFLICT OF INTEREST.—

(1) A member of the Council may not serve as an agent for a foreign principal.

(2) Members of the Council shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (Public Law 95-521), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

(3) Members of the Council shall be deemed to be special Government employees, as defined in section 202 of title 18, United States Code, for purposes of sections 201, 202, 203, 205, and 208 of such title.

(f) COMPENSATION.—

(1) Each member of the Council who is not employed by the Federal Government or any State or local government—

(A) shall be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day such member is engaged in duties as a member of the Council; and

(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with section 5703 of such title.

(2) Each member of the Council who is employed by the Federal Government or any State or local government shall serve on the Council without additional compensation, but while engaged in duties as a member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(g) QUORUM.—

(1) IN GENERAL.—Seven members of the Council constitute a quorum, except that a lesser number may hold hearings if such action is approved by a two-thirds vote of the entire Council.

(2) INITIAL ORGANIZATION.—The Council shall not commence its duties until all the nongovernmental members have been appointed and have qualified.

(h) CHAIRPERSON.—The Council shall elect, by a two-thirds vote of the entire Council, a chairperson from among the nongovernmental members.

(i) MEETINGS.—The Council shall meet at the call of the chairperson or a majority of the members.

(j) Policy Actions.—Except as provided in subsection (g), no action establishing policy shall be taken by the Council unless approved by two-thirds of the entire membership of the Council.

(k) Alternate Members.—

(1) Each member of the Council shall designate one alternate representative to attend any meeting that such member is unable to attend.

(2) In the course of attending any such meeting, an alternate representative shall be considered a member of the Council for all purposes, except for voting.

(l) Experts and Consultants.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

(m) Details.—Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this subtitle.

15 USC 4805.

SEC. 5206. EXECUTIVE DIRECTOR AND STAFF.

(a) Executive Director.—

(1) The principal administrative officer of the Council shall be an Executive Director, who shall be appointed by the Council and who shall be paid at a rate not to exceed GS-18 of the General Schedule.

(2) The Executive Director shall serve on a full-time basis.

(b) Staff.—(1) Within the limitations of appropriations to the Council, the Executive Director may appoint a staff for the Council in accordance with the Federal civil service and classification laws.

(2) The staff of the Council shall be deemed to be special government employees as defined in section 202 of title 18, United States Code, for purposes of title II of the Ethics in Government Act of 1978 and sections 201, 202, 203, 205, 207, and 208 of title 18, United States Code.

15 USC 4806.

SEC. 5207. POWERS OF THE COUNCIL.

(a) Hearings.—The Council may, for the purpose of carrying out the provisions of this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before the Council.

(b) Information.—

(1)(A) Except as provided in subparagraph (B), the Council may secure directly from any Federal agency information necessary to enable the Council to carry out the provisions of this subtitle. Upon request of the chairman of the Council, the head of such agency shall promptly furnish such information to the Council.

Classified information. Defense and national security.

(B) Subparagraph (A) does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

(2) In any case in which the Council receives any information from a Federal agency, the Council shall not disclose such

information to the public unless such agency is authorized to disclose such information pursuant to Federal law.

(d) CONSULTATION WITH THE PRESIDENT AND THE CONGRESS.—No later than 60 days after the initial members are appointed to the Council, the Council shall submit a report to the President, the Senate Governmental Affairs Committee, and the appropriate committees of the House of Representatives and of the Senate, that proposes the type and scope of activities the Council shall undertake, including the extent to which the Council will coordinate activities with other advisory committees relating to trade and competitiveness in order to maximize the effectiveness of the Council.

(e) GIFTS.—The Council may accept, use, and dispose of gifts or donations or services or property.

(f) USE OF THE MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative and support services as the Council may request.

(h) SUBCOUNCILS.—

(1) The Council may establish, for such period of time as the Council determines appropriate, subcouncils of public and private leaders to analyze specific competitive issues.

(2) Any such subcouncil shall include representatives of business, labor, government, and other individuals or representatives of groups whose participation is considered by the Council to be important to developing a full understanding of the subject with which the subcouncil is concerned.

(3) Any such subcouncil shall include a representative of the Federal Government.

(4) Any such subcouncil shall assess the actual or potential competitiveness problems facing the industry or the specific policy issues with which the subcouncil is concerned and shall formulate specific recommendations for responses by business, government, and labor—

(A) to encourage adjustment and modernization of the industry involved;

(B) to monitor and facilitate industry responsiveness to opportunities identified under section 5208(b)(1)(B);

(C) to encourage the ability of the industry involved to compete in markets identified under section 5208(b)(1)(C); or

(D) to alleviate the problems in a specific policy area facing more than one industry.

(5) Any discussion held by any subcouncil shall not be considered to violate any Federal or State antitrust law.

(6) Any discussion held by any subcouncil shall not be subject to the provisions of the Federal Advisory Committee Act, except that a Federal representative shall attend all subcouncil meetings.

Termination date.

(7) Any subcouncil shall terminate 30 days after making recommendations, unless the Council specifically requests that the subcouncil continue in operation.

(i) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The provisions of subsections (e) and (f) of section 10, of the Federal Advisory Committee Act shall not apply to the Council.

SEC. 5208. ANNUAL REPORT.

15 USC 4807.

(a) Submission of Report.—The Council shall annually prepare and submit to the President, the Senate Governmental Affairs Committee, and the appropriate Committees of the House of Representatives and the Senate a report setting forth—

(1) the goals to achieve a more competitive United States economy;

(2) the policies needed to meet such goals;

(3) a summary of existing policies of the Federal Government or State and local governments significantly affecting the competitiveness of the United States economy; and

(4) a summary of significant economic and technological developments, in the United States and abroad, affecting the competitive position of United States industries.

(b) Contents of Report.—The report submitted under subsection (a) shall—

(1) identify and describe actual or foreseeable developments, in the United States and abroad, which—

(A) create a significant likelihood of a competitive challenge to, or of substantial dislocation in, an established United States industry;

(B) present significant opportunities for United States industries to compete in new geographical markets or product markets, or to expand the position of such industries in established markets; or

(C) create a significant risk that United States industries shall be unable to compete successfully in significant markets;

(2) specify the industry sectors affected by the developments described in the report under paragraph (1); and

(3) contain a statement of the findings and recommendations of the Council during the previous fiscal year, including any recommendations of the Council for (a) such legislative or administrative actions as the Council considers appropriate, and (b) including the elimination, consolidation, reorganization of government agencies especially such agencies that specifically deal with research, science, technology, and international trade.

(c) Report by Congressional Committees.—The Council shall consult with each committee to which a report is submitted under this section and after such consultation, each such committee shall submit to its respective House a report setting forth the views and recommendations of such committee with respect to the report of the Council.

SEC. 5209. AUTHORIZATION OF APPROPRIATIONS.

15 USC 4808.

There are authorized to be appropriated for each of the fiscal years 1989 and 1990 such sums as may be necessary not to exceed $5,000,000 to carry out the provisions of this subtitle.

SEC. 5210. DEFINITIONS.

15 USC 4809.

For purposes of this subtitle—

(1) the term "Council" means the Competitiveness Policy Council established under section 5203;

(2) the term "member" means a member of the Competitiveness Policy Council;

(3) the term "United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States; and

(4) the term "agent of a foreign principal" is defined as such term is defined under subsection (d) of the first section of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611) subject to the provisions of section 3 of such Act (22 U.S.C. 613).

Subtitle D—Federal Budget Competitiveness Impact Statement

SEC. 5301. PRESIDENT'S ANNUAL BUDGET SUBMISSION.

Subsection (a) of section 1105 of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(26) an analysis, prepared by the Office of Management and Budget after consultation with the chairman of the Council of Economic Advisers, of the budget's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year for which the budget is submitted—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;

"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.".

SEC. 5302. ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.

Subsection (e) of section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632(e)) is amended by "and" at the end of paragraph (8), by striking out the period and by inserting "; and" at the end of paragraph (9), and by inserting at the end thereof the following new paragraph:

"(10) an analysis, prepared after consultation with the Director of the Congressional Budget Office, of the concurrent resolution's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year covered by the concurrent resolution—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;

"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.".

SEC. 5303. EFFECTIVE DATE.

31 USC 1105 note.

The amendment made by section 5301 shall be effective for fiscal years 1989, 1990, 1991, and 1992, and shall be fully reflected in the budgets submitted by the President as required by section 1105(a) of title 31, United States Code, for each such fiscal year, and the amendment made by section 5302 shall be effective for fiscal years 1989, 1990, 1991, and 1992.

Subtitle E—Trade Data and Studies

PART I—NATIONAL TRADE DATA BANK

SEC. 5401. DEFINITIONS.

15 USC 4901.

For purposes of this subtitle—

(1) the term "Committee" means the Interagency Trade Data Advisory Committee;

(2) the term "Data Bank" means the National Trade Data Bank;

(3) the term "Executive agency" has the same meaning as in section 105 of title 5, United States Code;

(4) the term "export promotion data system" means the data system known as the Commercial Information Management System which is maintained and operated by the United States and Foreign Commercial Service and is established as part of the Data Bank under section 3816;

(5) the term "international economic data system" means the data system established as part of the Data Bank under section 5406 which contains data useful to policymakers and analysis concerned with international economics; and

(6) the term "Secretary" means the Secretary of Commerce.

SEC. 5402. INTERAGENCY TRADE DATA ADVISORY COMMITTEE.

15 USC 4902.

(a) Establishment.—There is established the Interagency Trade Data Advisory Committee.

(b) Membership.—The Committee shall consist of—

(1) the United States Trade Representative;

(2) the Secretary of Agriculture;

(3) the Secretary of Defense;

(4) the Secretary of Commerce;

(5) the Secretary of Labor;

(6) the Secretary of the Treasury;

(7) the Secretary of State;

(8) the Director of the Office of Management and Budget;

(9) the Director of Central Intelligence;

(10) the Chairman of the Federal Reserve Board;

(11) the Chairman of the International Trade Commission;

(12) the President of the Export-Import Bank;

(13) the President of the Overseas Private Investment Corporation; and

(14) such other members as may be appointed by the President from full-time officers or employees of the Federal Government.

(c) CHAIRMAN.—The Secretary of Commerce shall be Chairman of the Committee.

(d) DESIGNEES.—Any member of the Committee may appoint a designee to serve in place of such member on the Committee.

15 USC 4903.

SEC. 5403. FUNCTIONS OF THE COMMITTEE.

The Committee shall advise the Secretary of Commerce, as appropriate, on the establishment, structure, contents, and operation of a National Trade Data Bank in accordance with section 5406 in order to assure the timely collection of accurate data and to provide the private sector and government officials efficient access to economic and trade data collected by the Federal Government for purposes of policymaking and export promotion.

15 USC 4904.

SEC. 5404. CONSULTATION WITH THE PRIVATE SECTOR AND GOVERNMENT OFFICIALS.

The Secretary shall regularly consult with representatives of the private sector and officials of State and local governments to assess the adequacy of United States trade information. The Secretary shall seek recommendations on how trade information can be made more accessible, understandable, and relevant. The Secretary shall seek recommendations as to what data should be included in the export promotion data system in the Data Bank.

15 USC 4905.

SEC. 5405. COOPERATION AMONG EXECUTIVE AGENCIES.

Each executive agency shall furnish to the Secretary such information for inclusion in the National Trade Data Bank as the Secretary, in consultation with the Advisory Committee, considers necessary to the operation of the Data Bank.

15 USC 4906.

SEC. 5406. ESTABLISHMENT OF THE DATA BANK.

(a) ESTABLISHMENT.—Within 2 years after the date of the enactment of this Act, the Secretary of Commerce shall establish the Data Bank. The Secretary shall manage the Data Bank. The Data Bank shall consist of two data systems, to be designated the International Economic Data System, as described in subsection (b) and the Export Promotion Data System, as described in subsection (c).

Classified information.

(b) INTERNATIONAL ECONOMIC DATA SYSTEM.—The International Economic Data System shall include current and historical information determined by the Secretary to be useful (after the consultation required by section 5404) to policymakers and analysts concerned with international economics and trade and which shall include data compiled or obtained by appropriate executive agencies. Such information shall not identify parties to transactions. Such information may include data for the United States and countries with which the United States has important economic relations including—

(1) data on imports and exports, including—

(A) aggregate import and export data for the United States and for each foreign country;

(B) industry-specific import and export data for each foreign country;

(C) product and service specific import and export data for the United States;

(D) market penetration information; and

(E) foreign destinations for exports of the United States;

(2) data on international service transactions;

(3) information on international capital markets, including—

(A) interest rates; and

(B) average exchange rates;

(4) information on foreign direct investment in the United States economy;

(5) international labor market information, including—

(A) wage rates for major industries;

(B) international unemployment rates; and

(C) trends in international labor productivity;

(6) information on foreign government policies affecting trade, including—

(A) trade barriers; and

(B) export financing policies;

(7) import and export data for the United States on a State-by-State basis aggregated at the product level including—

(A) data concerning the country shipping the import, the State of first destination, and the original part of entry for imports of goods and, to the extent possible, services; and

(B) data concerning the State of the exporter, the port of departure, and the country of first destination for export of goods and, to the extent possible, services; and

(8) any other economic and trade data collected by the Federal Government that the Secretary determines to be useful in carrying out the purposes of this subtitle.

Classified information.

(c) EXPORT PROMOTION DATA SYSTEM.—The export promotion data system shall include data and information collected by the Federal Government on the industrial sectors and markets of foreign countries which are determined by the Secretary (after consultation required by section 5404) to be of the greatest interest to United States business firms that are engaged in export-related activities and to Federal and State agencies that promote exports, while providing for the confidentiality of proprietary business information, and shall be designed to use the most effective means of disseminating data and information electronically through the Department, or Department-designated offices, or through other available data bases in an accurate and timely manner. Such data system shall monitor, organize, and disseminate selected information on—

(1) specific business opportunities in foreign countries;

(2) specific industrial sectors within foreign countries with high export potential such as—

(A) size of the market;

(B) distribution of products;

(C) competition;

(D) significant applicable laws, regulations, specifications, and standards;

(E) appropriate government officials; and

(F) trade associations and other contact points; and

(3) foreign countries generally, such as—

(A) the general economic conditions;

(B) common business practices;

(C) significant tariff and trade barriers; and

(D) other significant laws and regulations regarding imports, licensing, and the protection of intellectual property;

(4) export financing information, including the availability, through public sources of funds for United States exporters and foreign competitors;

(5) transactions involving barter and countertrade; and

(6) any other similar information, that the Secretary determines to be useful in carrying out the purposes of this subtitle.

15 USC 4907.

SEC. 5407. OPERATION OF THE DATA BANK.

The Secretary shall manage the Data Bank to provide the most appropriate data retrieval system or systems possible. Such system or systems shall—

(1) be designed to utilize data processing and retrieval technology in monitoring, organizing, analyzing, and disseminating the data and information contained in the Data Bank;

(2) use the most effective and meaningful means of organizing and making such information available to—

(A) United States Government policymakers;

(B) United States business firms;

(C) United States workers;

(D) United States industry associations;

(E) United States agricultural interests;

(F) State and local economic development agencies; and

(G) other interested United States persons who could benefit from such information;

(3) be of such quality and timeliness and in such form as to assist coordinated trade strategies for the United States; and

(4) facilitate dissemination of information through nonprofit organizations with significant outreach programs which complement the regional outreach programs of the United States and Foreign Commercial Service.

15 USC 4908.

SEC. 5408. INFORMATION ON THE SERVICE SECTOR.

(a) SERVICE SECTOR INFORMATION.—The Secretary shall ensure that, to the extent possible, there is included in the Data Bank information on service sector economic activity that is as complete and timely as information on economic activity in the merchandise sector.

(b) SURVEY.—The Secretary shall undertake a new benchmark survey of service transactions, including transactions with respect to—

(1) banking services;

(2) information services, including computer software services;

(3) brokerage services;

(4) transportation services;

(5) travel services;

(6) engineering services;

(7) construction services; and

(8) health services.

(c) GENERAL INFORMATION AND INDEX OF LEADING INDICATORS.—The Secretary shall provide—

(1) not less than once a year, comprehensive information on the service sector of the economy; and

(2) an index of leading indicators which includes the measurement of service sector activity in direct proportion to the con-

tribution of the service sector to the gross national product of the United States.

SEC. 5409. EXCLUSION OF INFORMATION.

15 USC 4909.

The Data Bank shall not include any information—

(1) the disclosure of which to the public is prohibited under any other provision of law or otherwise authorized to be withheld under other provision of law; or

(2) that is specifically authorized under criteria established by statute or an Executive order not to be disclosed in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

SEC. 5410. NONDUPLICATION.

15 USC 4910.

The Secretary shall ensure that information systems created or developed pursuant to this subtitle do not unnecessarily duplicate information systems available from other Federal agencies or from the private sector.

SEC. 5411. COLLECTION OF DATA.

15 USC 4911.

Except as provided in section 5408, nothing in this subtitle shall be considered to grant independent authority to the Federal Government to collect any data or information from individuals or entities outside of the Federal Government.

SEC. 5412. FEES AND ACCESS.

15 USC 4912.

The Secretary shall provide reasonable public services and access (including electronic access) to any information maintained as part of the Data Bank and may charge reasonable fees consistent with section 552 of title 5, United States Code.

SEC. 5413. REPORT TO CONGRESS.

15 USC 4913.

(a) Interim Report.—Not more than 1 year after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives describing actions taken pursuant to this subtitle, particularly—

(1) actions taken to provide the information on services described in section 5408; and

(2) actions taken to provide State-by-State information as described in section 5406(b)(7).

(b) Final Report.—Not more than 3 years after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives—

(1) assessing the current quality and comprehensiveness of, and the ability of the public and of private entities to obtain access to trade data;

(2) describing all other actions taken and planned to be taken pursuant to this subtitle;

(3) including comments by the private sector and by State agencies that promote exports on the implementation of the Data Bank;

(4) describing the extent to which the systems within the Data Bank are being used and any recommendations with regard to the operation of the system; and

(5) describing the extent to which United States citizens and firms have access to the data banks of foreign countries that is similar to the access provided to foreign citizens and firms.

PART II—STUDIES

2 USC 194b.

SEC. 5421. COMPETITIVENESS IMPACT STATEMENTS.

(a) The President or the head of the appropriate department or agency of the Federal Government shall include in every recommendation or report made to the Congress on legislation which may affect the ability of United States firms to compete in domestic and international commerce a statement of the impact of such legislation on—

(1) the international trade and public interest of the United States, and

(2) the ability of United States firms engaged in the manufacture, sale, distribution, or provision of goods or services to compete in foreign or domestic markets.

(b) This section provides no private right of action as to the need for or adequacy of the statement required by subsection (a).

Termination date.

(c) This section shall cease to be effective six years from the date of enactment.

15 USC 4603a.

SEC. 5422. STUDY AND REPORT BY THE ADVISORY COUNCIL ON FEDERAL PARTICIPATION IN SEMATECH.

(a) STUDY AND REPORT.—Not later than February 1, 1989, and annually thereafter for each fiscal year in which appropriated funds are expended for Sematech the Advisory Council on Federal Participation in Sematech established under section 273(a) of the National Defense Authorization Act for fiscal years 1988 and 1989 (15 U.S.C. 4603(a); Public Law 100-180) shall conduct a study and submit a report to the Governmental Affairs Committee and the Armed Services Committee of the Senate and to appropriate committees of the House of Representatives concerning Federal participation in Sematech. The study and report shall be conducted under the direction of the Under Secretary of Commerce for Economic Affairs.

(b) COUNCIL RECOMMENDATIONS AND REPORT.—The Council shall include in the report submitted under subsection (a) the following:

(1) identification of potential sources of Federal funding from department and agency budgets for Sematech and recommendations concerning methods and terms of Federal financial participation in Sematech, including grants, loans, loan guarantees, and contributions in kind. The feasibility of methods of Federal recoupment shall also be considered;

(2) definition and assessment of continued Federal participation in Sematech including, but not limited to, issues of technology research and development, civilian and defense industrial base objectives and initiatives, and commercialization. The report shall include a summary of the most recent plans, milestones, and cost estimates for Sematech, including any changes and alterations, and shall comment on Sematech's accomplishments and shortfalls in the preceding fiscal year;

(3) coordination of inter-agency participation, including all matters pertaining to Federal funding and decisionmaking, and other issues regarding Federal participation in Sematech; and

(4) any other issues and questions the Council deems appropriate shall be considered.

SEC. 5423. IMPACT OF NATIONAL DEFENSE EXPENDITURES ON INTERNATIONAL COMPETITIVENESS.

(a) FINDINGS.—The Congress finds that the ability of United States industries to compete in world markets may be adversely affected by the following factors:

(1) The allocation of intellectual resources between the private and public sectors.

(2) The distribution of innovative research and development between commercial and noncommercial applications.

(3) The number of scientific advances which are ultimately commercialized.

(4) The cost of capital which is affected by many factors including the budget deficit and defense spending.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should evaluate the impact on United States competitiveness of—

(1) the defense spending by foreign countries, particularly Japan's expenditure of 1 percent of its gross national product for defense compared to the expenditure of the United States of 6 percent of its gross national product, and

(2) the other factors listed in subsection (a).

TITLE VI—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

Education and Training for a Competitive America Act of 1988.
Disadvantaged persons.
Employment and unemployment.
Schools and colleges.
20 USC 5001.
20 USC 5002.

SEC. 6001. SHORT TITLE.

This title may be cited as the "Education and Training for a Competitive America Act of 1988".

SEC. 6002. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the relationship between a strong and vibrant educational system and a healthy national economy is inseparable in an era in which economic growth is dependent on technology and is imperiled by increased foreign competition;

(2) our Nation's once undisputed pre-eminence in international commerce is facing unprecedented challenges from competitor nations who have given priority to the relationship between education and economic growth in areas such as high technology industries;

(3) our standing in the international marketplace is being further eroded by the presence in the workforce of millions of Americans who are functionally or technologically illiterate or who lack the mathematics, science, foreign language, or vocational skills needed to adapt to the structural changes occurring in the global economy;

(4) our competitive position is also being eroded by declines in the number of students taking advanced courses in mathematics, science, and foreign languages and by the lack of

modern technical and laboratory equipment in our educational institutions;

(5) restoring our competitiveness and enhancing our productivity will require that all workers possess basic educational skills and that many others possess highly specific skills in mathematics, science, foreign languages, and vocational areas; and

(6) our Nation must recognize the substantial impact that an investment in human capital will have on increasing productivity.

(b) PURPOSE.—It is therefore the purpose of this title to establish programs designed—

(1) to enhance ongoing efforts in elementary and secondary education;

(2) to improve our productivity and competitive position by investing in human capital;

Disadvantaged persons.

(3) to assist out-of-school youth and adults who are functionally illiterate in obtaining the basic skills needed for them to become productive workers in a competitive economy;

Schools and colleges.

(4) to help educational institutions prepare those engaged in work relating to mathematics, science, and foreign languages by improving and expanding instruction in those areas and by modernizing laboratory and technical equipment;

Employment and unemployment.

(5) to enhance the skills of workers affected, or about to be affected, by economic change, in order to prevent dislocation within existing industries and to strengthen emerging domestic industries; and

(6) to accomplish such purposes without impairing the availability of funds to carry out existing programs that address the needs of dislocated workers, such as previously authorized education programs.

20 USC 5003.

SEC. 6003. DEFINITIONS.

As used in this title—

(1) The term "foreign language instruction" means instruction in critical foreign languages as defined by the Secretary.

(2) The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

(3) The terms "local educational agency" and "State educational agency" have the same meaning given such terms under section 198 of the Elementary and Secondary Education Act of 1965.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

20 USC 5004.

SEC. 6004. GENERAL PROVISIONS.

(a) GRANT REQUIREMENTS.—The Secretary shall ensure, with respect to grants provided under subtitles A and B, that—

Women.
Minorities.
Handicapped persons.

(1) services assisted by funds received under such grants shall be made available to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited English proficiency, and migrant students;

(2) the terms "training" and "instruction" are interpreted to include training and instruction through telecommunications technologies, including the full range of current and new technologies that can be used for educational purposes, such as television broadcasts, closed circuit television systems, cable television, satellite transmissions, computers, VHS, laser discs, and audio by discs, tapes, or broadcast, and such other video and telecommunications technologies that alone or in combination can assist in teaching and learning; and

(3) where appropriate, programs funded under subtitles A and B shall be coordinated with other federally funded education and training programs.

(b) ADDITIONAL ELIGIBLE INSTITUTIONS.—For purposes of any program authorized by subtitle A or B, institutions eligible to participate shall include any accredited proprietary institution providing a program of less than six months duration that is otherwise eligible to participate in any program under subtitle A or B.

Contracts.

(c) BUDGET LIMITATION.—The Secretary may not make grants or enter into contracts under subtitle A, B, or C except to such extent, or in such amounts, as may be provided in appropriation Acts.

National Science Foundation University Infrastructure Act of 1988.
Research and development.
Schools and colleges.
Museums.
42 USC 1861 note.
42 USC 1862a.

Subtitle E—National Science Foundation University Infrastructure

SEC. 6401. SHORT TITLE.

This subtitle may be cited as the "National Science Foundation University Infrastructure Act of 1988".

SEC. 6402. NATIONAL SCIENCE FOUNDATION ACADEMIC RESEARCH FACILITIES MODERNIZATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in modernizing and revitalizing the Nation's research facilities at institutions of higher education, independent nonprofit research institutions and research museums through capital investments.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out an Academic Research Facilities Modernization Program, under which awards shall be made to institutions of higher education, independent nonprofit research institutions and research museums, and consortia thereof, for the repair, renovation, or replacement (as appropriate) of such institutions' obsolete laboratories and other research facilities.

(c) PROJECTS AND FUNDING.—(1) The Academic Research Facilities Modernization Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(A) which involve the repair, renovation, or replacement (as appropriate) of specific research facilities at the eligible institutions or consortia thereof involved, and

(B) for which funds are awarded in response to specific proposals submitted by such eligible institutions or consortia thereof in accordance with regulations prescribed by the Director of the Foundation, pursuant to subsection (d), with the objective of carrying out the purpose of this section.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any eligible institution or consortia thereof will be in an amount equal to not more than 50 percent of the cost of the repair, renovation, or replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or consortia thereof or from other non-Federal public or private sources).

Federal Register, publication.

(d) Criteria for Awards.—(1) Annually, or prior to the issuance of a program announcement for solicitation of proposals for the award of funds to any institution or consortia thereof for a project under the National Science Foundation Academic Research Facilities Modernization Program, the National Science Foundation shall publish in the Federal Register interim guidelines for public review and comment for a period of 60 days. Such guidelines shall include (but not be limited to) the following:

(A) specific definitions for the terms: facilities, instrumentation, equipment, repair, renovation, and replacement;

(B) specific selection criteria to be used in evaluating the scientific merit of proposals and, in making awards to an institution or to consortia thereof, including an analysis of the age and condition of existing research facilities; and

(C) specific provisions for matching the Federal grant pursuant to subsection (b).

Federal Register, publication.

(2) Final guidelines shall be published in the Federal Register 60 days following the close of the comment period incorporating such appropriate revisions as may arise from comments received during the review period. The guidelines, at a minimum, shall include selection criteria for the following:

(A) the quality of the research and training to be carried out in the facility or facilities involved;

(B) the congruence of the institution's research and training activities with the future research needs of the Nation and the training and research mission of the National Science Foundation;

(C) the contribution which the project will make toward meeting national, regional, and the institution's research and related training needs; and

(D) the need for the proposed repair, renovation, or replacement (as appropriate) based on an analysis of the age and condition of existing research facilities and equipment.

Grants.

(e) Distribution of Funds.—Awards made under the National Science Foundation Academic Research Facilities Modernization Program shall not exceed $5,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or replacement (as appropriate) of academic research facilities.

(f) Consultations.—In prescribing criteria and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other related agencies.

Grants.

(g) Reservations for Certain Institutions.—(1) At least 15 percent of the amount which is appropriated pursuant to this section in any fiscal year shall be available only for awards to universities, colleges, and research museums that received less than $10,000,000 in total Federal obligations for research and development (including obligations for the activities authorized in this section and section 6403) in each of the two preceding fiscal years.

Minorities. Indians.

(2) Of the amounts appropriated under this section in each fiscal year at least 10 percent of the funds shall be reserved for institutions of higher education servicing a substantial percentage of students who are Black Americans, Native Americans, Hispanic Americans, Alaskan Natives (Eskimos or Aleut), Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), Northern Marianian, or Palauan.

(3) Requirements of paragraph (2) may be satisfied by considering the funds awarded under paragraph (1) to the institutions described in paragraph (2).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $85,000,000 for fiscal year 1989 to carry out the National Science Foundation Academic Research Facilities Modernization Program. Such sums shall be available for that Program every year thereafter subject to the authorizations and appropriations of activities for the National Science Foundation.

42 USC 1862b.

SEC. 6403. NATIONAL SCIENCE FOUNDATION COLLEGE SCIENCE INSTRUMENTATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in revitalizing the Nation's academic instructional instrumentation at colleges.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out the College Science Instrumentation Program, under which awards are made only to two-year and community colleges and four-year, non-Ph.D. degree-granting institutions or consortia thereof for the purchase of instructional instrumentation.

(c) PROJECTS AND FUNDING.—(1) The College Science Instrumentation Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(1) which involve the purchase and replacement (as appropriate) of specific instructional instrumentation at the institutions involved, and

(2) for which funds are awarded in response to specific proposals submitted by such institutions or consortia thereof on a competitive basis in accordance with regulations prescribed by the Director of the Foundation with the objective of carrying out the purposes of this Act.

Regulations.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution or consortia thereof after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any academic institution will be in an amount equal to not more than 50 percent of the cost of the purchase and replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or from other non-Federal public or private sources).

(d) CRITERIA FOR AWARDS.—The National Science Foundation will evaluate proposals on the basis of the following criteria:

(1) PERFORMANCE COMPETENCE.—This criterion relates to the capacity of the investigator or investigators, the technical soundness of the proposed approach, the adequacy of the institutional resources available, and the proposed recent research/science education performance.

(2) INTRINSIC MERIT.—This criterion relates to the quality, currency, and significance of the scientific content and related instructional activity of the project within the context of undergraduate science, mathematics, and engineering education.

(3) UTILITY OR RELEVANCE.—This criterion relates to the impact the project will have at the proposing institution, and the relevance of the project in the local context.

(4) EFFECT ON THE INFRASTRUCTURE OF SCIENCE AND ENGINEERING.—This criterion relates to the potential of the proposed project to contribute to better understanding or improvement of the quality, distribution, effectiveness of the Nation's scientific and engineering research, education, and manpower base.

(e) CONSULTATIONS.—In prescribing regulations and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other related agencies.

(f) AUTHORIZATION OF APPROPRIATIONS.—Such sums shall be available for the College Science Instrumentation Program subject every year to the authorizations and appropriations for the National Science Foundation.

TITLE VIII—SMALL BUSINESS

Small Business International Trade and Competitiveness Act.
15 USC 631 note.

SEC. 8001. SHORT TITLE.

This title may be cited as the "Small Business International Trade and Competitiveness Act".

SEC. 8002. DECLARATION OF POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) through (e) as subsections (c) through (f), respectively, and by inserting after subsection (a) the following:

"(b)(1) It is the declared policy of the Congress that the Federal Government, through the Small Business Administration, acting in cooperation with the Department of Commerce and other relevant State and Federal agencies, should aid and assist small businesses, as defined under this Act, to increase their ability to compete in international markets by—

"(A) enhancing their ability to export;

"(B) facilitating technology transfers;

"(C) enhancing their ability to compete effectively and efficiently against imports;

"(D) increasing the access of small businesses to long-term capital for the purchase of new plant and equipment used in the production of goods and services involved in international trade;

"(E) disseminating information concerning State, Federal, and private programs and initiatives to enhance the ability of small businesses to compete in international markets; and

"(F) ensuring that the interests of small businesses are adequately represented in bilateral and multilateral trade negotiations.

"(2) The Congress recognizes that the Department of Commerce is the principal Federal agency for trade development and export promotion and that the Department of Commerce and the Small Business Administration work together to advance joint interests. It is the purpose of this Act to enhance, not alter, their respective roles.".

SEC. 8003. CHANGES IN EXISTING SMALL BUSINESS ADMINISTRATION INTERNATIONAL TRADE OFFICE.

Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) The Office, working in close cooperation with the Department of Commerce and other relevant Federal agencies, Small Business Development Centers engaged in export promotion efforts, regional and local Administration offices, the small business community, and relevant State and local export promotion programs, shall—

"(1) assist in developing a distribution network for existing trade promotion, trade finance, trade adjustment, trade remedy assistance and trade data collection programs through use of the Administration's regional and local offices and the Small Business Development Center network;

Marketing.

"(2) assist in the aggressive marketing of these programs and the dissemination of marketing information, including computerized marketing data, to the small business community; and

"(3) give preference in hiring or approving the transfer of any employee into the Office or to a position described in paragraph (8) below to otherwise qualified applicants who are fluent in a language in addition to English. Such employees shall accompany foreign trade missions if designated by the director of the Office and shall be available as needed to translate documents, interpret conversations and facilitate multilingual transactions including providing referral lists for translation services if required.";

(2) in subsection (c), as redesignated, by redesignating paragraphs (1) through (3) as (6) through (8), respectively, and by inserting the following before paragraph (6), as redesignated:

"(1) in cooperation with the Department of Commerce, other relevant agencies, regional and local Administration offices, the Small Business Development Center network, and State programs, develop a mechanism for (A) identifying sub-sectors of the small business community with strong export potential; (B) identifying areas of demand in foreign markets; (C) prescreening foreign buyers for commercial and credit purposes; and (D) assisting in increasing international marketing by disseminating relevant information regarding market leads, linking potential sellers and buyers, and catalyzing the formation of joint ventures, where appropriate;

"(2) in cooperation with the Department of Commerce, actively assist small businesses in the formation and utilization of export trading companies, export management companies and research and development pools authorized under section 9 of this Act;

"(3) work in conjunction with other Federal agencies, regional and local offices of the Administration, the Small Business Development Center network, and the private sector to identify and publicize existing translation services, including those available through colleges and universities participating in the Small Business Development Center Program;

Schools and colleges.

"(4) work closely with the Department of Commerce and other relevant Federal agencies to—

"(A) collect, analyze and periodically update relevant data regarding the small business share of United States exports and the nature of State exports (including the production of Gross State Produce figures) and disseminate that data to the public and to Congress;

Public information.

"(B) make recommendations to the Secretary of Commerce and to Congress regarding revision of the SIC codes to encompass industries currently overlooked and to create SIC codes for export trading companies and export management companies;

"(C) improve the utility and accessibility of existing export promotion programs for small businesses; and

"(D) increase the accessibility of the Export Trading Company contact facilitation service;

"(5) make available to the small business community information regarding conferences on exporting and international trade sponsored by the public and private sector."; and

(3) by adding after subsection (c), as redesignated, the following new subsections:

"(d) The Office shall work in cooperation with the Export-Import Bank of the United States, the Department of Commerce, other relevant Federal agencies, and the States to develop a program through which export specialists in the regional offices of the Administration, regional and local loan officers, and Small Business Development Center personnel can facilitate the access of small businesses to relevant export financing programs of the Export-Import Bank of the United States and to export and pre-export financing programs available from the Administration and the private sector. To accomplish this goal, the Office shall work in cooperation with the Export-Import Bank and the small business community, including small business trade associations, to—

"(1) aggressively market existing Administration export financing and pre-export financing programs;

Marketing.

"(2) identify financing available under various Export-Import Bank programs, and aggressively market those programs to small businesses;

"(3) assist in the development of financial intermediaries and facilitate the access of those intermediaries to existing financing programs;

"(4) promote greater participation by private financial institutions, particularly those institutions already participating in loan programs under this Act, in export finance; and

"(5) provide for the participation of appropriate Administration personnel in training programs conducted by the Export-Import Bank.

"(e) The Office shall—

"(1) work in cooperation with other Federal agencies and the private sector to counsel small businesses with respect to initiating and participating in any proceedings relating to the administration of the United States trade laws; and

"(2) work with the Department of Commerce, the Office of the United States Trade Representative, and the International Trade Commission to increase access to trade remedy proceedings for small businesses.

Reports. "(f) The Office shall report to the Committees on Small Business of the House of Representatives and the Senate on an annual basis as to its progress in implementing the requirements under this section.

Reports. "(g) The Office, in cooperation, where appropriate, with the Division of Economic Research of the Office of Advocacy, and with other Federal agencies, shall undertake studies regarding the following issues and shall report to the Committees on Small Business of the House of Representatives and the Senate, and to other relevant Committees of the House and Senate within 6 months after the date of enactment of the Small Business International Trade and Competitiveness Act with specific recommendations on—

"(1) the viability and cost of establishing an annual, competitive small business export incentive program similar to the Small Business Innovation Research program and alternative methods of structuring such a program;

"(2) methods of streamlining trade remedy proceedings to increase access for, and reduce expenses incurred by, smaller firms;

"(3) methods of improving the current small business foreign sales corporation tax incentives and providing small businesses with greater benefits from this initiative;

"(4) methods of identifying potential export markets for United States small businesses; maintaining and disseminating current foreign market data; and devising a comprehensive export marketing strategy for United States small business goods and services, and shall include data on the volume and dollar amount of goods and services, identified by type, imported by United States trading partners over the past 10 years; and

"(5) the results of a survey of major United States trading partners to identify the domestic policies, programs and incentives, and the private sector initiatives, which exist to encourage the formation and growth of small business.".

15 USC 631 note.

SEC. 8004. AUTHORIZATION OF APPROPRIATIONS.

Section 20 of the Small Business Act (15 U.S.C. 631) is amended by adding the following at the end of subsection (z): "There are hereby authorized to be appropriated to the Administration for each of fiscal years 1988 and 1989, $3,500,000 to carry out the provisions of section 22 of this Act and section 8011 of the Small Business International Trade and Competitiveness Act, of which $350,000 is authorized to reimburse volunteers in the Service Corps of Retired Executives for their expenses in performing on-site counseling to actual or potential small business exporters, in participating in training sessions for such small businesses, and in preparing materials for use at such training sessions or during counseling.".

SEC. 8005. EXPORT FINANCING PROVIDED BY THE ADMINISTRATION.

Section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) is amended to read as follows:

"(14)(A) The Administration under this subsection may provide extensions and revolving lines of credit for export purposes and for pre-export financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. No such extension or revolving line of credit may be made for a period or periods exceeding 18 months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable.

Banks and banking.

"(B) When considering loan or guarantee applications, the Administration shall give weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small businesses, including agricultural concerns, in the export market.

Loans.

"(C) The Administration shall aggressively market its export financing program to small businesses.".

SEC. 8006. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) AUTHORIZATION OF APPROPRIATION.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (z): "There are hereby authorized to be appropriated to the Administration for each of the fiscal years 1988 and 1989, $5,000,000 to carry out the provisions of section 21(a)(6).".

(b) SBDC INFORMATION DISSEMINATION AND SERVICE DELIVERY.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) in subsection (a)(1), by inserting after "enterprises;" the following: "management and technical assistance regarding small business participation in international markets, export promotion and technology transfer;";

(2) in subsection (a), by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting the following after paragraph (1):

"(2) The Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the Department of Commerce, appropriate Federal, State and local agencies and the small business community to serve as an active information dissemination and service delivery mechanism for existing trade promotion, trade finance, trade adjustment, trade remedy and trade data collection programs of particular utility for small businesses.";

(3) by adding at the end of subsection (a) the following new paragraph:

Grants.

"(6) Any applicant which is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to assist—

"(A) with the development and enhancement of exports by small business concerns; and

"(B) in technology transfer,

as provided under subparagraphs (B) through (G) of subsection (c)(3). Applicants for such additional grants shall comply with all of the provisions of this section, including providing matching funds, except that funding under this paragraph shall be effective for any fiscal year to the extent provided in advance in appropriations Acts and shall be in addition to the dollar program limitations specified in paragraphs (4) and (5). No recipient of funds under this paragraph shall receive a grant which would exceed its pro rata share of a $15,000,000 program based upon the populations to be served by the Small Business Development Center as compared to the total population of the United States. The minimum amount of eligibility for any State shall be $100,000.";

State and local governments.

(4) in subsection (c)(3), by striking subparagraph (B) and by inserting the following new subparagraph (B):

Research and development.

"(B) assisting in technology transfer, research and development, including applied research, and coupling from existing sources to small businesses, including—

"(i) working to increase the access of small businesses to the capabilities of automated flexible manufacturing systems;

"(ii) working through existing networks and developing new networks for technology transfer that encourage partnership between the small business and academic communities to help commercialize university-based research and development and introduce university-based engineers and scientists to their counterparts in small technology-based firms; and

"(iii) exploring the viability of developing shared production facilities, under appropriate circumstances;";

(5) in subsection (c)(3), by redesignating subparagraphs (C) through (H) as subparagraphs (H) through (M), respectively, and by inserting the following new subparagraphs after subparagraph (B):

"(C) in cooperation with the Department of Commerce and other relevant Federal agencies, actively assisting small businesses in exporting by identifying and developing potential export markets, facilitating export transactions, developing linkages between United States small business firms and prescreened foreign buyers, assisting small businesses to participate in international trade shows, assisting small businesses in obtaining export financing, and facilitating the development or reorientation of marketing and production strategies; where appropriate, the Small Business Development Center may work in cooperation with the State to establish a State international trade center for these purposes;

State and local governments.

Marketing.

"(D) assisting small businesses in developing and implementing marketing and production strategies that will enable them to better compete within the domestic market;

"(E) developing a program in conjunction with the Export-Import Bank and local and regional Administration offices that will enable Small Business Development Centers to serve as an information network and to assist small business applicants for Export-Import Bank financing programs, and otherwise identify and help to make available export financing programs to small businesses;

"(F) working closely with the small business community, small business consultants, State agencies, universities and other appropriate groups to make translation services more readily available to small business firms doing business, or attempting to develop business, in foreign markets;

"(G) in providing assistance under this subsection, applicants shall cooperate with the Department of Commerce and other relevant Federal agencies to increase access to available export market information systems, including the CIMS system;";

(6) in subsection (c), by adding the following new paragraphs:

State and local governments. Grants.

"(5) In any State (A) in which the Administration has not made a grant pursuant to paragraph (1) of subsection (a), or (B) in which no application for a grant has been made by a Small Business Development Center pursuant to paragraph (6) of such subsection within 60 days after the effective date of any grant under paragraph (a)(1) to such center, the Administration may make grants to a non-profit entity in that State to carry out the activities specified in paragraph (6) of subsection (a). Any such applicants shall comply with the matching funds requirement of paragraph (4) of subsection (a). Such grants shall be effective for any fiscal year only to the extent provided in advance in appropriations Acts, and each State shall be limited to the pro rata share provisions of paragraph (6) of subsection (a).

"(6) In performing the services identified in paragraph (3), the Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the local small business community, and appropriate State and local agencies.

"(7) The Deputy Associate Administrator of the Small Business Development Center program, in consultation with the Small Business Development Centers, shall develop and implement an information sharing system which will—

"(A) allow Small Business Development Centers participating in the program to exchange information about their programs; and

"(B) provide information central to technology transfer."; and

(7) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively, and inserting the following new subsection after subsection (c):

"(d) Where appropriate, the Small Business Development Centers shall work in conjunction with the relevant State agency and the Department of Commerce to develop a comprehensive plan for enhancing the export potential of small businesses located within the State. This plan may involve the cofunding and staffing of a State Office of International Trade within the State Small Business Development Center, using joint State and Federal funding, and any other appropriate measures directed at improving the export performance of small businesses within the State.".

SEC. 8007. CAPITAL FORMATION.

(a) LOAN LIMITATIONS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking "and" at the end of clause (i) of paragraph (2)(B) and by adding after clause (ii) the following new clauses:

"(iii) not less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and is less than $1,176,470; and "(iv) less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and exceeds $1,176,470;";

(2) by amending paragraph (3) to read as follows:

"(3) No loan shall be made under this subsection—

"(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed $750,000, except as provided in subparagraph (B);

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,000,000, such amount to be in addition to any financing solely for working capital, supplies, or revolving lines of credit for export purposes up to a maximum of $250,000; and

Banks and banking.

"(C) if effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis if the amount would exceed $350,000.";

(3) by adding the following new paragraphs after paragraph (15):

"(16)(A) The Administration may guarantee loans under this paragraph to assist any eligible small business concern in an industry engaged in or adversely affected by international trade in the financing of the acquisition, construction, renovation, modernization, improvement or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade, if the Administration determines that the appropriate upgrading of plant and equipment will allow the concern to improve its competitive position. Each such loan shall be secured by a first lien position or first mortgage on the property or equipment financed by the loan. The lender shall agree to sell the loan in the secondary market as authorized in sections 5(f) and 5(g) of this Act within 180 days of the date of disbursement.

"(B) A small business concern shall be considered to be engaged in or adversely affected by international trade for purposes of this provision if such concern is, as determined by the Administration in accordance with regulations that it shall develop—

"(i) in a position to significantly expand existing export markets or develop new export markets; or

"(ii) adversely affected by import competition in that it is—

"(I) confronting increased direct competition with foreign firms in the relevant market; and

"(II) can demonstrate injury attributable to such competition.

Banks and banking.

"(17) The Administration shall authorize lending institutions and other entities in addition to banks to make loans authorized under this subsection."; and

(4) by redesignating the existing paragraph (16) as paragraph (18).

15 USC 696.

(b) DEVELOPMENT COMPANY LIMITS.—Section 502(2) of the Small Business Investment Act of 1985 (15 U.S.C. 636(a)(3)) is amended by striking "$500,000" and by inserting in lieu thereof "$750,000".

State and local governments.
Loans.

(c) REPORT.—The Administrator of the Small Business Administration shall report to the Committees on Small Business of the House of Representatives and the Senate within 6 months after the date of enactment of this title as to the viability of creating cooperative Federal-State guarantee programs, particularly for purposes of export financing, to encourage States to coinsure Federal loans, thus permitting the Federal Government to reduce its exposure.

15 USC 638 note.

SEC. 8008. SMALL BUSINESS INNOVATION RESEARCH.

Reports.

Section 6 of Public Law 97-219, as amended by Public Law 99-443, is further amended by adding the following at the end of subsection (a): "The report also shall include the Comptroller General's recommendations as to the advisability of amending the Small Business Innovation Research program to—

"(1) increase each agency's share of research and development expenditures devoted to it by 0.25 per centum per year, until it is 3 per centum of the total extramural research and development funds, and targeting a portion of the increment at products with commercialization or export potential;

"(2) make the Small Business Innovation Research program permanent with a formal congressional review every 10 years, beginning in 1993;

"(3) allocate a modest but appropriate share of each agency's Small Business Innovation Research fund for administrative purposes for effective management, quality maintenance, and the elimination of program delays; and

"(4) include within the Small Business Innovation and Research program all agencies expending between $20,000,000 and $100,000,000 in extramural research and development funds annually.".

Reports.
15 USC 631 note.

SEC. 8009. GLOBALIZATION OF PRODUCTION.

Within one year after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit a written report to the Committees on Small Business of the House of Representatives and the Senate, prepared by the Administration in conjunction with the Bureau of Census and in cooperation with other relevant agencies, that would—

(1) analyze to the extent possible the effect of increased outsourcing and other shifts in production arrangements on small firms, particularly manufacturing firms, within the United States subcontractor tier and to the extent that such data is not available determine methods by which such data may be collected;

(2) assess the impact of specific economic policies, including, but not limited to, procurement, tax and trade policies, in facilitating outsourcing and other international production arrangements; and

(3) make recommendations as to changes in Government policy that would improve the competitive position of smaller United States subcontractors, including recommendations as to incentives which could be provided to larger corporations to maximize their use of United States subcontractors and assist these subcontractors in changing production and marketing

strategies and in obtaining new business in domestic and foreign markets.

Reports.

SEC. 8010. SMALL BUSINESS TRADE REMEDY ASSISTANCE.

Not later than December 1, 1988, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Governmental Affairs and the Committee on Small Business of the Senate, as well as to other appropriate committees of the Senate, and to the Committee on Small Business and the Committee on Ways and Means of the House of Representatives on the costs incurred by small businesses in pursuing rights and remedies under the trade laws. Such report shall include an analysis of—

(1) the costs incurred by small businesses (and trade associations whose membership is primarily small business) in pursuing investigations under the trade remedy laws, including—

(A) antidumping investigations and proceedings under title VII of the Tariff Act of 1930;

(B) countervailing duty investigations and proceedings under section 303 or title VII of the Tariff Act of 1930;

(C) unfair trade practice investigations under section 337 of the Tariff Act of 1930;

(D) investigations under chapter 1 of title III of the Tariff Act of 1974;

(E) import relief investigations under chapter 1 of title II of the Trade Act of 1974;

(F) market disruption investigations under section 406 of the Trade Act of 1974; and

(G) national security relief investigations under section 232 of the Trade Expansion Act of 1962;

(2) the extent of assistance and information provided by the Trade Remedy Assistance Office of the United States International Trade Commission;

(3) the ability of small businesses to generate the information and resources needed for such investigations; and

(4) the costs and benefits to the Federal Government of either—

(A) providing reimbursement to small businesses for legal expenses incurred in pursuing trade remedies; or

(B) providing direct legal assistance to small businesses.

15 USC 631 note.

SEC. 8011. NATIONAL SEMINAR ON SMALL BUSINESS EXPORTS.

(a) SEMINAR.—The Administration shall conduct a National Seminar on Small Business Exports within one year following enactment of this Act in order to develop recommendations designed to stimulate exports from small companies. The Seminar shall build upon the information collected by the Administration through previously conducted regional small business trade conferences.

(b) ASSISTANCE BY EXPERTS.—For the purpose of ascertaining facts and developing policy recommendations concerning the expansion of United States exports from small companies the Seminar shall bring together individuals who are experts in the fields of international trade and small business development and representatives of small businesses, associations, the labor community, academic institutions, and Federal, State and local governments.

(c) Recommendations Concerning Utility of International Conference.—The Seminar shall specifically consider the utility of, and make recommendations regarding, a subsequent International Conference on Small Business and Trade that would—

(1) help establish linkages between United States small business owners and small business owners in foreign countries;

(2) enable United States small business owners to learn how others organize themselves for exporting; and

(3) foster greater consideration of small business concerns in the GATT.

SEC. 8012. TRADE NEGOTIATIONS.

15 USC 631 note.

It is the sense of the Congress that the interests of the small business community have not been adequately represented in trade policy formulation and in trade negotiations. Therefore, it is the sense of the Congress that the Administrator of the Small Business Administration should be appointed as a member of the Trade Policy Committee and that the United States Trade Representative should consult with the Small Business Administration and its Office of Advocacy in trade policy formulation and in trade negotiations.

Further, it is the sense of the Congress that the United States Trade Representative would better serve the needs of the small business community with full-time staff assistance with responsibilities for small business trade issues.

Further, it is the sense of the Congress that the United States Trade Representative should appoint a special trade assistant for small business.

SEC. 8013. PROMULGATION OF REGULATIONS.

15 USC 631 note.

Notwithstanding any law, rule, or regulation, the Small Business Administration shall promulgate final regulations to carry out the provisions of this title within six months after the date of enactment of this title.

SEC. 8014. EFFECTIVE DATE.

15 USC 631 note.

This title shall become effective on the date of its enactment.

PUBLIC LAW 100-441—SEPT. 22, 1988

CONTINENTAL SCIENTIFIC DRILLING AND EXPLORATION ACT

Public Law 100-441
100th Congress

An Act

Sept. 22, 1988
[S. 52]

To direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

Continental Scientific Drilling and Exploration Act.
Energy.
Minerals and mining.
Research and development.
Hazardous materials.
43 USC 31 note.
43 USC 31 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Continental Scientific Drilling and Exploration Act".

SEC. 2. PURPOSES.

The purpose of this Act is to—

(1) implement section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) which supports and encourages the development of a national Continental Scientific Drilling Program;

(2) enhance fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust, and how such processes affect natural phenomena such as earthquakes, volcanic eruptions, transfer of geothermal energy, distribution of mineral deposits, the occurrence of fossil fuels, and the nature and extent of aquifers;

(3) advance basic earth sciences research and technological development;

(4) obtain critical data regarding the earth's crust relating to isolation of hazardous wastes; and

(5) develop a long-range plan for implementation of the Continental Scientific Drilling Program.

43 USC 31 note.

SEC. 3. FINDINGS.

Congress finds that—

(1) because the earth provides energy, minerals, and water, and is used as a storage medium for municipal, chemical, and nuclear waste, an understanding of the processes and structures in the earth's crust is essential to the well being of the United States;

(2) there is a need for developing long-range plans for a United States Continental Scientific Drilling Program; and

(3) the Continental Scientific Drilling Program would enhance—

(A) understanding of the crustal evolution of the earth and the mountain building processes;

(B) understanding of the mechanisms of earthquakes and volcanic eruptions and the development of improved techniques for prediction;

(C) understanding of the development and utilization of geothermal and other energy sources and the formation of and occurrence of mineral deposits;

(D) understanding of the migration of fluids in the earth's crust for evaluation of waste contamination and the development of more effective techniques for the safe subsurface disposal of hazardous wastes;

(E) understanding and definition of the size, source, and more effective use of aquifers and other water resources; and

(F) evaluation and verification of surface geophysical techniques needed for exploring and monitoring the earth's crust.

SEC. 4. IMPLEMENTATION OF CONTINENTAL SCIENTIFIC DRILLING PROGRAM.

43 USC 31 note.

The Secretary of the Department of Energy, the Secretary of the Department of the Interior through the United States Geological Survey, and the Director of the National Science Foundation shall implement the policies of section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) by—

(1) taking such action as necessary to assure an effective, cooperative effort in furtherance of the Continental Scientific Drilling Program of the United States;

(2) taking all reasonable administrative and financial measures to assure that the Interagency Accord on Continental Scientific Drilling continues to function effectively in support of such program;

(3) assuring the continuing effective operation of the Interagency Coordinating Group to further the objectives of such program;

(4) taking such action to assure that the Interagency Coordinating Group receives appropriate cooperation from any Federal agency that can contribute to the objectives of such program, without adversely affecting any program or activity of such agency;

Reports.

(5) acting through the Interagency Coordinating Group, preparing and submitting to the Congress, within one hundred and eighty days after the enactment of this Act a report describing—

(A) long and short-term policy objectives and goals of the United States Continental Scientific Drilling Program;

(B) projected schedules of desirable scientific and engineering events that would advance United States objectives in the Continental Scientific Drilling Program;

(C) the levels of resources and funding for fiscal year 1989 that would be required by each participating Federal agency to carry out events pursuant to subparagraphs (A) and (B);

(D) the scientific, economic, technological, and social benefits expected to be realized through the implementation of such program at each level described in subparagraph (C);

(E) a recommended course for interaction with the international community in a cooperative effort to achieve the goals and purposes of this Act;

(F) the extent of participation or interest shown to date in the Continental Scientific Drilling Program by—

(i) any other governmental agency;

(ii) any academic institution;

(iii) any organization in the private sector; and

(iv) any governmental or other entity in the international community;

(G) a plan to develop beneficial cooperative relationships among the entities mentioned in subparagraph (F), to the extent that the Interagency Coordinating Group deems practicable; and

(H) any other information or recommendations that the Interagency Coordinating Group deems appropriate; and

Reports.

(6) submitting to the Congress annually, beginning one year after the submission of a report under paragraph (5), a report describing the levels of resources and funding that would be required by each participating Federal agency for the next fiscal year to carry out events pursuant to paragraph (5) (A) and (B).

Approved September 22, 1988.

LEGISLATIVE HISTORY—S. 52 (H.R. 2737):

HOUSE REPORTS: No. 100-580, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science, Space, and Technology), both accompanying H.R. 2737.
SENATE REPORTS: No. 100-67 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 17, considered and passed Senate.
Vol. 134 (1988): May 23, H.R. 2737 considered and passed House; proceedings vacated and S. 52, amended, passed in lieu.
June 10, Senate concurred in House amendment with an amendment.
Sept. 9, House concurred in Senate amendment.

Public Law 100-476
100th Congress

An Act

Oct. 6, 1988
[H.R. 4419]

To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(g)(1) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, there are authorized to be appropriated to carry out the purposes of this Act—

"(A) $17,039,000 for the fiscal year ending September 30, 1989;

"(B) $17,737,000 for the fiscal year ending September 30, 1990; and

"(C) $18,464,000 for the fiscal year ending September 30, 1991.

"(2) Of the amounts referred to in paragraph (1), not more than $4,150,000 is authorized to be appropriated for each fiscal year for National Emergency Training Center site administration.".

Safety.
Deaf persons.

SEC. 2. (a) The Administrator of the United States Fire Administration shall conduct a study concerning the quality, availability, and degree of use of fire prevention systems for the hearing impaired population. In particular such study shall—

(1) evaluate the quality of equipment for the hearing impaired;

(2) assess the extent, adequacy, and status of research on ways to improve the quality of such equipment;

(3) evaluate the availability of such equipment and the extent to which it is being used in houses, apartments, hotels, and public buildings; and

(4) determine the degree to which such equipment is required by States and model codes.

Reports.

(b) The Administrator shall, not later than January 1, 1989, complete such study and transmit to the Congress a report on the results of the study, together with recommendations on how fire alarm and detection systems for the hearing impaired can be improved and how the use of such systems can be encouraged, including the appropriate Federal role in doing so.

Approved October 6, 1988.

LEGISLATIVE HISTORY—H.R. 4419:

HOUSE REPORTS: No. 100-589 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-435 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 24, considered and passed House.
Aug. 10, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendment.

Public Law 100-519
100th Congress

An Act

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes.

Oct. 24, 1988
[H.R. 4417]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY AUTHORIZATION

National Institute of Standards and Technology Authorization Act for Fiscal Year 1989.

SECTION 101. SHORT TITLE.

This title may be cited as the "National Institute of Standards and Technology Authorization Act for Fiscal Year 1989".

SEC. 102. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) Authorizations.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), for fiscal year 1989, to carry out activities performed by the National Institute of Standards and Technology, the sums set forth in the following line items:

(1) Measurement Research and Standards, $43,220,000.

(2) Materials Science and Engineering, $24,054,000.

(3) Engineering Measurements and Standards, $49,098,000.

(4) Computer Science and Technology, $11,000,000.

(5) Research Support Activities, $20,867,000.

(6) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $19,500,000).

(7) Technology Services, $3,300,000.

(b) Limitations.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the total amount authorized under paragraph (3) of subsection (a)—

(A) $4,000,000 is authorized only for the Center for Building Technology, and

(B) $6,000,000 is authorized only for the Center for Fire Research,

and the two Centers shall not be merged;

(3) of the total amount authorized under paragraph (5) of subsection (a), $7,500,000 is authorized only for the technical competence fund; and

(4) of the amount authorized under paragraph (7) of subsection (a)—

(A) $3,000,000 is authorized only for the support of Regional Centers for the Transfer of Manufacturing Technology, and Assistance to State Technology Programs;

(B) $300,000 is authorized only for the evaluation of non-energy-related inventions and related technology extension activities; and

(C) funds authorized under subparagraph (A) shall be used only to award, amend, or renew research cooperative agreements entered into pursuant to the competitive process established by the National Bureau of Standards for this program (53 Fed. Reg. 27060; July 18, 1988).

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a); but such proposed transfer may not be made—

(A) unless a full and complete explanation of any such proposed transfer and the reason therefore are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

15 USC 278k note.

(d) PUBLICATION IN FEDERAL REGISTER.—The requirement of section 25(c)(2) of the Act of March 3, 1901, shall be considered to have been met by the publication made by the National Bureau of Standards on July 18, 1988 (53 Fed. Reg. 27060).

SEC. 103. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989—

(1) $1,000,000 for the activities of the Office of the Under Secretary of Commerce for Technology, as established in section 201(a); and

(2) $2,000,000 for the activities of the Office of Technology Policy, as established in such section.

SEC. 104. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized by this title, there is authorized to be appropriated to the Secretary for fiscal year 1989 the sum of $1,000,000 to carry out the purposes of the Japanese Technical Literature Act of 1986 (Public Law 99-382; 100 Stat. 811).

SEC. 105. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 106. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 107. RESEARCH INFORMATION CENTER.

The Research Information Center of the National Bureau of Standards shall be maintained as a governmental activity under the National Institute of Standards and Technology.

SEC. 108. EVALUATED ENGINEERING DATA STUDY.

Reports.

Within 6 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall conduct a study of needs within the private and public sectors for evaluated engineering data, and shall submit a report to the Congress making recommendations concerning the appropriate roles of the National Institute of Standards and Technology, other government agencies, professional societies, and trade associations in the collection, evaluation, and dissemination of such data. Such recommendations shall, among other things, address plans for the dissemination of the results of the study through data bases, and plans for incorporating high quality results from other countries.

SEC. 109. TECHNOLOGY SERVICES.

Small business.
State and local governments.
15 USC 272a.

In addition to such other technology services and technology extension activities which may be mandated or authorized by law, and in order to help improve the use of technology by small and medium-sized industrial firms within the United States, the Director of the National Institute of Standards and Technology, as appropriate, shall—

(1) work directly with States, local governments, and other appropriate organizations to provide for extended distribution of Standard Reference Materials, Standard Reference Data, calibrations, and related technical services and to help transfer other expertise and technology to the States and to small businesses and other businesses within the States;

(2) evaluate those inventions from small businesses or individuals which have a significant potential for improving competitiveness;

(3) provide support for workshops on technical and entrepreneurial topics and share information developed through the Malcolm Baldrige Quality Award Program; and

(4) work with other Federal agencies to provide technical and related assistance to the States and businesses within the States.

SEC. 110. TECHNOLOGY TRANSFER.

Reports.

Within 6 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on domestic technology transfer accomplishments, trends, and plans since 1986 at the National Bureau of Standards and the National Institute of Standards and Technology. Such report shall describe with examples the types of technology transfer undertaken by the National Bureau of Standards or the National Institute of Standards and Technology, the amount of funds devoted to these efforts, and patent and licensing activities related to the National Bureau of Standards and the National Institute of Standards and Technology research results. The report shall describe the division of technology transfer activities between the Gaithersburg, Maryland, and Boulder, Colorado, sites of the National Institute of Standards and Technology. The merits of establishing a technology transfer office in Boulder or of giving the Boulder laboratories increased technology transfer responsibilities shall also be considered.

15 USC 272b.

SEC. 111. ANNUAL BUDGET SUBMISSION.

The National Institute of Standards and Technology shall annually submit to the Congress, at the time of the release of the President's budget, a three year budget estimate for the Institute, including funding estimates for each major account and new initiative.

15 USC 272 note.

SEC. 112. INTERNATIONAL STANDARDS.

(a) PROGRAM.—The Secretary, acting through the Director of the National Institute of Standards and Technology and other appropriate officials, shall seek funding for and establish, within 6 months after the date of the enactment of this Act, a program to assist other countries in the development of their domestic standards which are compatible with standards in general use in the United States. After the program is established, it shall be funded through voluntary contributions from the private sector to fully reimburse the United States for expenses incurred during fiscal years 1989 and 1990. The program shall begin on a pilot basis focusing on one or two countries or groups of countries which are major United States trading partners and have expressed interest in such program. The Secretary shall ensure that contributions which are earmarked by country are spent to assist the development of standards by that country or group of countries.

Gifts and property.

(b) LONG-TERM PLAN.—No later than June 30, 1989, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a long-term plan for assistance under this section for each nation or group of nations which annually has imports of at least $1,000,000,000 from the United States (or has the potential for being a major importer from the United States) and which desires such assistance. The plan shall include a description of the resources needed to provide such assistance, the appropriate and likely sources of such funds, and the appropriate relationship between the program established under this section and private sector standards organizations. Special consideration is to be given to the feasibility of establishing a data base and other methods for making standards information developed in cooperation with one country available to other countries.

TITLE II—TECHNOLOGY ADMINISTRATION IN THE DEPARTMENT OF COMMERCE

Subtitle A—Technology Administration

SEC. 201. TECHNOLOGY ADMINISTRATION.

(a) ESTABLISHMENT.—Section 5(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(a)) is amended to read as follows:

"(a) ESTABLISHMENT.—There is established in the Department of Commerce a Technology Administration, which shall operate in accordance with the provisions, findings, and purposes of this Act. The Technology Administration shall include—

"(1) the National Institute of Standards and Technology;

"(2) the National Technical Information Service; and

"(3) a policy analysis office, which shall be known as the Office of Technology Policy.".

(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—Section 5(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(b)) is amended to read as follows:

President of U.S.

"(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—The President shall appoint, by and with the advice and consent of the Senate, to the extent provided for in appropriations Acts—

"(1) an Under Secretary of Commerce for Technology, who shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code; and

"(2) an Assistant Secretary of Commerce for Technology Policy, who shall serve as policy analyst for the Under Secretary.".

(c) DUTIES.—Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (1) through (10) as paragraphs (5) through (14), respectively;

(2) by striking "Assistant Secretary, on a continuing basis, shall—" and inserting in lieu thereof "Under Secretary, as appropriate, shall—

"(1) manage the Technology Administration and supervise its agencies, programs, and activities;

"(2) conduct technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;

"(3) carry out any functions formerly assigned to the Office of Productivity, Technology, and Innovation;

"(4) assist in the implementation of the Metric Conversion Act of 1975;"; and

(3) in paragraph (10), as redesignated by paragraph (1) of this subsection, by striking "Assistant Secretary" and inserting in lieu thereof "Under Secretary".

(d) CONFORMING AMENDMENTS.—(1) Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended—

(A) in paragraph (1), by striking "Productivity, Technology, and Innovation" and inserting in lieu thereof "Technology Policy"; and

(B) by amending paragraph (3) to read as follows:

"(3) 'Under Secretary' means the Under Secretary of Commerce for Technology appointed under section 5(b)(1).".

(2) Section 5(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(d)(1)) is amended by striking "shall establish and, through the National Technical Information Service and" and inserting in lieu thereof "and the Under Secretary shall establish, and through the National Technical Information Service and with the cooperation of".

(3) Section 11(g)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(g)(1)) is amended by inserting "through the Under Secretary, and" after "Secretary,".

(4) Section 5314 of title 5, United States Code, is amended by adding at the end the following item:

"Under Secretary of Commerce for Technology.".

15 USC 3704 note.

(e) TRANSITION.—The individual serving as the Assistant Secretary of Commerce for Productivity, Technology, and Innovation immediately before the date of enactment of this Act shall serve as Acting Assistant Secretary of Commerce for Technology Policy until the Assistant Secretary takes office.

National Technical Information Act of 1988.

Subtitle B—National Technical Information Service

15 USC 3701 note.

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "National Technical Information Act of 1988".

15 USC 3704b.

SEC. 212. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) POWERS.—(1) The Secretary of Commerce, acting through the Director of the National Technical Information Service (hereafter in this subtitle referred to as the "Director") is authorized to do the following:

Contracts.

(A) Enter into such contracts, cooperative agreements, joint ventures, and other transactions, in accordance with all relevant provisions of Federal law applicable to such contracts and agreements, and under reasonable terms and conditions, as may be necessary in the conduct of the business of the National Technical Information Service (hereafter in this subtitle referred to as the "Service").

(B) In addition to the authority regarding fees contained in section 2 of the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950 (15 U.S.C. 1152), retain and, subject to appropriations Acts, utilize its net revenues to the extent necessary to implement the plan submitted under subsection (f)(3)(D).

(C) Enter into contracts for the performance of part or all of the functions performed by the Promotion Division of the Service prior to the date of the enactment of this Act. The details of any such contract, and a statement of its effect on the operations and personnel of the Service, shall be provided to the appropriate committees of the Congress 30 days in advance of the execution of such contract. Contracts.

(D) Employ such personnel as may be necessary to conduct the business of the Service.

An increase or decrease in the personnel of the Service shall not affect or be affected by any ceilings on the number or grade of personnel.

(2) The functions and activities of the Service specified in subsection (e) (1) through (6) are permanent Federal functions to be carried out by the Secretary through the Service and its employees, and shall not be transferred from the Service, by contract or otherwise, to the private sector on a permanent or temporary basis without express approval of the Congress. Functions or activities—

(A) for the procurement of supplies, materials, and equipment by the Service;

(B) referred to in paragraph (1)(C); or

(C) to be performed through joint ventures or cooperative agreements which do not result in a reduction in the Federal workforce of the affected programs of the service,

shall not be considered functions or activities for purposes of this paragraph.

(3) For the purposes of this subsection, the term "net revenues" means the excess of revenues and receipts from any source, other than royalties and other income described in section 13(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(4)), over operating expenses.

(4) Section 11(h) of the Stevenson-Wydler Technology Innovation Act of 1980 is repealed. 15 USC 3710.

(b) DIRECTOR OF THE SERVICE.—The management of the Service shall be vested in a Director who shall report to the Under Secretary of Commerce for Technology and the Secretary of Commerce.

(c) ADVISORY BOARD.—(1) There is established the Advisory Board of the National Technical Information Service, which shall be composed of a chairman and four other members appointed by the Secretary. Establishment.

(2) In appointing members of the Advisory Board the Secretary shall solicit recommendations from the major users and beneficiaries of the Service's activities and shall select individuals experienced in providing or utilizing technical information.

(3) The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and shall advise the Secretary and the Director with respect thereto.

(4) The Advisory Board shall meet at the call of the Secretary, but not less often than once each six months.

(d) AUDITS.—The Secretary of Commerce shall provide for annual independent audits of the Service's financial statements beginning with fiscal year 1988, to be conducted in accordance with generally accepted accounting principles.

(e) FUNCTIONS.—The Secretary of Commerce, acting through the Service, shall—

Records. Public information.

(1) establish and maintain a permanent repository of nonclassified scientific, technical, and engineering information;

(2) cooperate and coordinate its operations with other Government scientific, technical, and engineering information programs;

Libraries.

(3) make selected bibliographic information products available in a timely manner to depository libraries as part of the Depository Library Program of the Government Printing Office;

(4) in conjunction with the private sector as appropriate, collect, translate into English, and disseminate unclassified foreign scientific, technical, and engineering information;

(5) implement new methods or media for the dissemination of scientific, technical, and engineering information; and

(6) carry out the functions and activities of the Secretary under the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950, and the functions and activities of the Secretary performed through the National Technical Information Service as of the date of enactment of this Act under the Stevenson-Wydler Technology Innovation Act of 1980.

(f) NOTIFICATION OF CONGRESS.—(1) The Secretary of Commerce and the Director shall keep the appropriate committees of Congress fully and currently informed about all activities related to the carrying out of the functions of the Service, including changes in fee policies.

Reports.

(2) Within 90 days after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report on the current fee structure of the Service, including an explanation of the basis for the fees, taking into consideration all applicable costs, and the adequacy of the fees, along with reasons for the declining sales at the Service of scientific, technical, and engineering publications. Such report shall explain any actions planned or taken to increase such sales at reasonable fees.

Reports.

(3) The Secretary shall submit an annual report to the Congress which shall—

(A) summarize the operations of the Service during the preceding year, including financial details and staff levels broken down by major activities;

(B) detail the operating plan of the Service, including specific expense and staff needs, for the upcoming year;

(C) set forth details of modernization progress made in the preceding year;

(D) describe the long-term modernization plans of the Service; and

(E) include the results of the most recent annual audit carried out under subsection (d).

(4) The Secretary shall also give the Congress detailed advance notice of not less than 30 calendar days of—

(A) any proposed reduction-in-force;

(B) any joint venture or cooperative agreement which involves a financial incentive to the joint venturer or contractor; and

(C) any change in the operating plan submitted under paragraph (3)(B) which would result in a variation from such plan with respect to expense levels of more than 10 percent.

TITLE III—MISCELLANEOUS AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Patents and trademarks.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)(2), by striking "at the laboratory and other inventions" and inserting in lieu thereof "or other intellectual property developed at the laboratory and other inventions or other intellectual property"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraphs (2) and (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) determine rights in other intellectual property developed under an agreement entered into under subsection (a)(1); and".

SEC. 302. REWARDS.

Section 13(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710b(1)) is amended by inserting "computer software," after "inventions, innovations,".

SEC. 303. DISTRIBUTION OF ROYALTIES.

(a) Section 14(a)(1)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A)) is amended—

(1) in clause (i), by striking "was an employee of the agency at the time the invention was made" and inserting in lieu thereof "has assigned his or her rights in the invention to the United States"; and

(2) in clause (ii), by striking "who were employed by the agency at the time the invention was made and whose names appear on licensed inventions" and inserting in lieu thereof "under clause (i)".

(b) This section shall be effective as of October 20, 1986.

Effective date.
15 USC 3710c note.

TITLE IV—DRUG-FREE WORKPLACE

SEC. 401. DRUG-FREE WORKPLACE.

(a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this Act for fiscal year 1989 or under any other Act authorizing appropriations for fiscal year 1989 for the National Institute of Standards and Technology (hereafter in this section referred to as the "Institute"), shall obligate or expend any such funds, unless the Institute has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Institute.

(b) No funds so authorized to be appropriated to the Institute for fiscal year 1989 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the Director of the Institute, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 4417 (S. 2701):

HOUSE REPORTS: No. 100-673, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-476 accompanying S. 2701 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 100-570
100th Congress

An Act

To authorize appropriations for the National Science Foundation, and for other purposes.

Oct. 31, 1988
[H.R. 4418]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Science Foundation Authorization Act of 1988.

SHORT TITLE

SECTION 1. This Act may be cited as the "National Science Foundation Authorization Act of 1988". 42 USC 1861 note.

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Congress finds that to strengthen basic research and human resources in science and engineering the programs of the National Science Foundation (hereinafter referred to as the "Foundation") should be adequately funded.

(b) There is authorized to be appropriated to the Foundation $2,050,000,000 for fiscal year 1989, which shall be available for the following categories:

- (1) Research and Related Activities, $1,653,500,000, which shall be available for the following subcategories:
  - (A) Mathematical and Physical Sciences, $507,800,000.
  - (B) Engineering, $198,000,000.
  - (C) Biological, Behavioral, and Social Sciences, $288,700,000.
  - (D) Geosciences, $320,900,000.
  - (E) Computer and Information Science and Engineering, $162,100,000.
  - (F) Science and Technology Research Centers, $25,000,000.
  - (G) Scientific, Technological, and International Affairs, $56,000,000.
  - (H) Program Development and Management, $95,000,000.
- (2) Science and Engineering Education, $175,500,000, of which $17,500,000 shall be available for College Science Instrumentation.
- (3) United States Antarctic Program, $141,000,000.
- (4) Academic Research Facilities Modernization, $80,000,000.

(c) There is authorized to be appropriated to the Foundation $2,388,000,000 for fiscal year 1990, which shall be available for the following categories:

- (1) Research and Related Activities, $1,910,700,000, which shall be available for the following subcategories:
  - (A) Mathematical and Physical Sciences, $588,500,000.
  - (B) Engineering, $229,500,000.

(C) Biological, Behavioral, and Social Sciences, $334,600,000.

(D) Geosciences, $372,000,000.

(E) Computer and Information Science and Engineering, $188,000,000.

(F) Science and Technology Research Centers, $30,000,000.

(G) Scientific, Technological, and International Affairs, $65,000,000.

(H) Program Development and Management, $103,100,000.

(2) Science and Engineering Education, $205,300,000.

(3) United States Antarctic Program, $147,000,000.

(4) Academic Research Facilities Modernization, $125,000,000.

(d) There is authorized to be appropriated to the Foundation $2,782,000,000 for fiscal year 1991, which shall be available for the following categories:

(1) Research and Related Activities, $2,200,200,000, which shall be available for the following subcategories:

(A) Mathematical and Physical Sciences, $681,500,000.

(B) Engineering, $265,800,000.

(C) Biological, Behavioral, and Social Sciences, $387,400,000.

(D) Geosciences, $430,800,000.

(E) Computer and Information Science and Engineering, $217,600,000.

(F) Science and Technology Research Centers, $30,000,000.

(G) Scientific, Technological, and International Affairs, $75,200,000.

(H) Program Development and Management, $111,900,000.

(2) Science and Engineering Education, $240,200,000.

(3) United States Antarctic Program, $154,100,000.

(4) Academic Research Facilities Modernization, $187,500,000.

(e) There is authorized to be appropriated to the Foundation $3,245,000,000 for fiscal year 1992, which shall be available for the following categories:

(1) Research and Related Activities, $2,552,000,000.

(2) Science and Engineering Education, $281,000,000.

(3) United States Antarctic Program, $162,000,000.

(4) Academic Research Facilities Modernization, $250,000,000.

(f) There is authorized to be appropriated to the Foundation $3,505,000,000 for fiscal year 1993, which shall be available for the following categories:

(1) Research and Related Activities, $2,772,000,000.

(2) Science and Engineering Education, $308,000,000.

(3) United States Antarctic Program, $175,000,000.

(4) Academic Research Facilities Modernization, $250,000,000.

(g) Notwithstanding any other provision of this Act—

(1) not less than $5,000,000 of the amount authorized in subsection (b)(2) is authorized only for purposes of teacher training and enhancement and for development of model curriculum tailored for science and mathematics instruction, and instruction in technician training programs, in two-year and community colleges; and

(2) in allocating funds authorized under this section for planning grants for Science and Technology Centers, the Director of the Foundation (hereinafter referred to as the "Director") shall give due consideration to the need to establish centers in geographic areas of the United States in which there is no nationally recognized research university.

(h)(1) If the total amount appropriated for a program category specified in subsections (b) through (f) of this section is less than the total amount authorized to be appropriated for such category under this section, the portion of such appropriated amount that shall be available for spending for each subcategory of such category, and for each program of such category or subcategory for which a funding floor is specified, shall be determined as follows:

(A) For each subcategory, the amount available for spending shall be equal to the amount specified in subsections (b) through (f) for that subcategory, as multiplied by the funding availability percentage.

(B) For each program of any category or subcategory for which a funding floor is specified, the amount available for spending shall be equal to the amount specified in this section as the floor for that program, as multiplied by the funding availability percentage.

(2) For the purposes of this subsection, the term "funding availability percentage" means the percentage determined by dividing—

(A) the total amount appropriated for a program category specified in subsection (b), (c), (d), (e), or (f) of this section by

(B) the total amount authorized under subsection (b), (c), (d), (e), or (f) for that category.

AVAILABILITY OF APPROPRIATIONS

SEC. 102. Appropriations made under authority provided in section 101 of this Act shall remain available for obligation for periods specified in the Acts making the appropriations.

CONSULTATION AND REPRESENTATION EXPENSES

SEC. 103. From appropriations made under authorizations provided in this Act, not more than $7,500 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of the Director. The determination of the Director will be final and conclusive upon the accounting officers of the Government.

TRANSFER OF FUNDS

SEC. 104. (a) In any given fiscal year, funds may be transferred among the categories listed in section 101, and among subcategories listed in section 101, so long as the net funds transferred to or from any category, or to or from any subcategory, do not exceed 10 percent of the amount authorized for that category or subcategory.

(b) In addition, the Director may propose transfers to or from any category exceeding 10 percent of the amount authorized for that category in section 101, and to or from any subcategory in which the net funds transferred exceed 10 percent of the amount authorized for that subcategory. An explanation of any such proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology of the House of Representatives, and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate. The proposed transfer may be made only when 30 calendar days have passed after transmission of such written explanation.

ADMINISTRATIVE AMENDMENTS

SEC. 105. (a) Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end thereof the following:

Classified information.

"(k) Portions of Board meetings in which the Board considers proposed Foundation budgets for a particular fiscal year may be closed to the public until the President's budget for that fiscal year has been submitted to the Congress.".

(b) Subsection (c) of section 15 of the National Science Foundation Act of 1950 (42 U.S.C. 1874) is repealed.

(c) Section 36(f) of the Science and Technology Equal Opportunities Act (42 U.S.C. 1885c(f)) is amended to read as follows:

Reports.

"(f) Every two years, the Committee shall prepare and transmit to the Director a report on its activities during the previous two years and proposed activities for the next two years. The Director shall transmit to Congress the report, unaltered, together with such comments as the Director deems appropriate.".

TEMPORARY PERSONNEL

SEC. 106. Section 14(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(a)) is amended by inserting "(1)" immediately after "(a)", and by adding at the end the following new paragraphs:

"(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

Wages.

"(3) The Foundation may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Foundation. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.".

BUDGET ESTIMATES

SEC. 107. Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended by adding at the end the following new subsection:

"(j) Starting with fiscal year 1990, the Foundation shall submit to the Congress in each fiscal year, at the time of the release of the President's budget, a three-year budget estimate for the Foundation. The three-year budget shall include funding estimates for each major activity, including each scientific directorate, the United States Antarctic Program, the Science and Engineering Education Directorate, and the Program Development and Management activity.".

FINANCIAL DISCLOSURE REPORT FOR BOARD MEMBERS

SEC. 108. Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end the following new subsection:

Classified information.

"(k) Members of the Board shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (5 U.S.C. App. 92 Stat. 1836), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.".

EVALUATIONS OF RESEARCH CENTERS

42 USC 1862e.

SEC. 109. In carrying out performance reviews of research centers by the Foundation, the Director shall take such action as may be necessary, consistent with the merit review process of the Foundation, to ensure that—

(1) members of review panels are free from any conflict of interest; and

(2) the conditions of each award to such centers have been fulfilled.

RESEARCH CENTER CONSORTIA

Grants.
42 USC 1862f.

SEC. 110. In Foundation programs making grants to research centers, the Director shall encourage the formation of consortia that include research universities, two-year and four-year colleges, and the private sector.

BUY-AMERICAN REQUIREMENTS

Contracts.
42 USC 1870a.

SEC. 111. (a) The Director shall, to the maximum extent practicable and consistent with current law, award to domestic firms any contracts for the purchase of goods and services intended for direct use by the Foundation.

Reports.

(b) The Director shall, as soon as possible after the date of enactment of this Act, prepare a report on—

(1) the number of Foundation contracts entered into with foreign firms in fiscal year 1988;

(2) the number of such contracts entered into with domestic firms in that fiscal year;

(3) the number of contracts entered into with foreign firms where the Foundation also received a technically acceptable bid from a domestic firm; and

(4) any steps the Foundation will take to increase the number of contracts awarded to domestic firms.

Such report shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate.

(c) For the purposes of this section—

(1) the term "domestic firm" means a business entity which is organized under the laws of the United States or the laws of a State, district, commonwealth, territory, or possession of the United States, and which conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

UNDERGRADUATE SCIENCE IMPROVEMENT

20 USC 3911 note.

SEC. 112. (a) The Congress finds that the support of undergraduate science and engineering education is a critical component in a comprehensive national policy intended to ensure the Nation's future supply of scientists and engineers.

Women. Minorities. Handicapped persons.

(b) In accordance with the provisions of this Act, the Foundation shall support undergraduate science and engineering activities in instrumentation and laboratory improvement, undergraduate faculty enhancement, undergraduate research opportunities, undergraduate curriculum development, and efforts to encourage the participation of women, minorities, and the disabled in such fields.

(c) In carrying out the provisions of this section, the Foundation shall take into account the special needs of two-year and four-year colleges and universities.

EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

42 USC 1862g.

SEC. 113. (a) The Director shall operate an Experimental Program to Stimulate Competitive Research, the purpose of which is to assist those States that—

(1) historically have received relatively little Federal research and development funding; and

(2) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(b) A State which has received an initial award under such Program, whether or not the award was received before or after the date of enactment of this Act, shall be eligible for up to 5 years of additional support under the program if that State provides assurances of new matching funds and submits an acceptable new plan for using Program funds and matching funds to build the research capabilities of the State.

COLLEGE AND UNIVERSITY INNOVATION RESEARCH

Reports.

SEC. 114. The Director shall prepare and submit, not later than March 1, 1989, a report to the Committee on Labor and Human Resources and Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science, Space, and Technology of the House of Representatives on assisting academic researchers at a wide range of colleges and universities, including smaller institutions and institutions which do not traditionally receive Federal research funds, to pursue high-quality research of economic potential. The report shall—

(1) describe the procedures, terms, and conditions necessary for the establishment of a program patterned after the Small Business Innovation Research program to assist college and university faculty to pursue research of economic potential;

(2) analyze the feasibility of establishing funding recoupment mechanisms to offset the cost of such assistance; and

(3) state whether such a program is appropriate and feasible and, if so, the steps the Director shall take to establish and carry out such a program.

EARTHQUAKE ENGINEERING RESEARCH

42 USC 7704 note.

SEC. 115. (a) The National Academy of Sciences shall conduct a study of earthquake engineering activities being carried out by the Foundation and other Federal agencies under the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.). Such study shall include—

(1) an assessment of the adequacy of each agency's current Federal earthquake engineering efforts, including those designed to increase the implementation of new techniques; the need for specialized research facilities, including large-scale facilities; the division of responsibilities among the various Federal agencies; and recommended levels of funding that the Foundation and other agencies should provide, in the form of grants to individuals, groups, and centers, to non-Federal researchers principally engaged in earthquake engineering research; and

(2) recommendations, if any, of the National Academy of Sciences for improvements in the current Federal efforts in the area of earthquake engineering research.

Reports.

(b) The results of the study required by subsection (a) of this section shall be reported to the Congress on or before the expiration of the 12-month period following the date of enactment of this Act.

(c) In carrying out such study, the National Academy of Sciences is authorized to call upon any agency, department, or other instrumentality or entity of the United States for cooperation, and such agency, department, instrumentality, or entity shall provide such cooperation.

DESALINATION REPORT

SEC. 116. The Office of Science and Technology Policy shall prepare and submit a report to the Congress not later than December 1, 1988, on desalination research and technology. The report shall—

(1) describe the state of desalination research and technology being conducted by agencies of the Federal Government;

(2) recommend an agency of the Federal Government to be the lead agency on desalination research and technology;

(3) recommend ways to spur research and technology to decrease the cost of desalination; and

(4) recommend how desalination research and technology can be used as a component of the foreign assistance program of the United States.

PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE

42 USC 1881b. SEC. 117. (a)(1)(A) The President is authorized to make Presidential Awards for Excellence in Mathematics and Science Teaching to kindergarten through grade 12 school teachers of mathematics and science who have demonstrated outstanding teaching ability in the field of teaching mathematics or science.

(B) Each year the President is authorized to make no fewer than 108 awards under subparagraph (A). In selecting teachers for an award authorized by this subsection, the President shall select at least two teachers—

(i) from each of the several States;

(ii) from the District of Columbia;

(iii) from the Commonwealth of Puerto Rico;

(iv) from among the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and other commonwealths, territories, and possessions of the United States; and

(v) from the United States Department of Defense Dependents' School.

(2) The President shall carry out this subsection, including the establishment of the selection procedures, after consultation with the Director and other appropriate officials of Federal agencies.

(3)(A) Funds to carry out this subsection for any fiscal year shall be made available from amounts appropriated pursuant to annual authorization of appropriations for the Foundation for Science and Engineering Education.

(B) Amounts made available pursuant to subparagraph (A) shall be available for making awards under this subsection, for administrative expenses, for necessary travel by teachers selected under this subsection, and for special activities related to carrying out this subsection.

(b)(1) Part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, is amended to read as follows:

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

20 USC 3011.

"SEC. 2201. PRESIDENTIAL AWARDS.

"(a) GENERAL AUTHORITY.—The President is authorized to make Presidential Awards for Teaching Excellence in Foreign Languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching ability in the field of teaching foreign languages.

"(b) LIMITATIONS.—Each year the President is authorized to make 108 awards under subsection (a). In selecting elementary and secondary school teachers for an award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher—

"(1) from each of the several States;

"(2) from the District of Columbia;

"(3) from the Commonwealth of Puerto Rico;

"(4) from among the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and other commonwealths, territories, and possessions of the United States; and

"(5) from the United States Department of Defense Dependents' School.

"SEC. 2202. ADMINISTRATIVE PROVISIONS.

20 USC 3012.

"(a) In General.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out this part.

"(b) Availability.—Amounts appropriated pursuant to subsection (a) shall be available for making awards under this part, for administrative expenses, for necessary travel by teachers selected under this part, and for special activities related to carrying out this part.".

(2) The items in the table of contents of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) relating to part C of title II are amended to read as follows:

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

"Sec. 2201. Presidential awards.
"Sec. 2202. Administrative provisions.".

DRUG-FREE WORKPLACE

42 USC 1875 note.

Sec. 118. (a) No funds authorized to be appropriated under this Act, or under any other Act authorizing appropriations for fiscal year 1989 through 1993 for the Foundation, shall be obligated or expended unless the Foundation has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Foundation.

(b) No funds authorized to be appropriated to the Foundation for fiscal years 1989 through 1993 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by the board of directors or other governing authority of such recipient, contractor, or party, satisfactory to the Director of the Foundation, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

TITLE II—ACADEMIC RESEARCH FACILITIES MODERNIZATION

Academic Research Facilities Modernization Act of 1988.

SHORT TITLE

42 USC 1861 note.

Sec. 201. This title may be cited as the "Academic Research Facilities Modernization Act of 1988".

FINDINGS AND PURPOSE

42 USC 1862a.

Sec. 202. (a) The Congress finds that—

(1) the fundamental research and related education program supported by the Federal Government and conducted by the Nation's universities and colleges are essential to our national security, and to our health, economic welfare, and general well-being;

(2) many national research and related education programs conducted by universities and colleges are now hindered by obsolete research buildings and equipment, and many institutions lack sufficient resources to repair, renovate, or replace their laboratories;

(3) the Nation's capacity to conduct high quality research and education programs and to maintain its competitive position at the forefront of modern science, engineering, and technology is threatened by this research capital deficit, which poses serious and adverse consequences to our future national security, health, welfare, and ability to compete in the international marketplace;

(4) a national effort to spur reinvestment in research facilities is needed, and national, State, and local policies and cooperative programs are required that will yield maximum return on the investment of scarce national resources and sustain a commitment to excellence in research and education; and

(5) the Foundation, as part of its responsibility for maintaining the vitality of the Nation's academic research, and in partnership with the States, industry, and universities and colleges, must assist in enhancing the historic linkages between Federal investment in academic research and training and investment in the research capital base by reinvesting in the capital facilities which modern research and education programs require.

(b) It is the purpose of this title to assist in modernizing and revitalizing the Nation's research facilities at institutions of higher education, independent non-profit research institutions and research museums, and consortia thereof, through capital investment.

ESTABLISHMENT OF PROGRAM

42 USC 1862b.

SEC. 203. (a)(1) To carry out this title, the Director shall establish and carry out a new Academic Research Facilities Modernization Program (hereafter in this title referred to as the "Program"), under which awards are made to institutions of higher education, independent nonprofit research institutions, and research museums, and consortia thereof, for the repair, renovation, or, in exceptional cases, replacement of obsolete science and engineering facilities primarily devoted to research.

(2) Such awards shall, consistent with the functions of the Foundation set forth in section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) and through established Foundation selection procedures, serve to—

(A) promote the modernization of graduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines;

(B) assist those academic institutions that historically have received relatively little Federal research and development funds to improve their academic science and engineering infrastructures and broaden and strengthen the Nation's science and engineering base; and

(C) promote the modernization of undergraduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines.

(b)(1) The Program shall be carried out through projects which involve the repair, renovation, or, in exceptional cases, replacement of specific science and engineering facilities devoted primarily to research at eligible institutions, or consortia thereof, and for which funds are awarded in response to specific proposals submitted by such eligible institutions or consortia in accordance with procedures prescribed by the Director pursuant to section 204 of this Act.

(2) Awards made under the Program shall not exceed $7,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or, in exceptional cases, replacement of academic research facilities.

(3) The Director shall, in making awards under the Program, consider the extent to which that institution or consortium has received funds for the repair, renovation, construction, or replacement of academic facilities from any other Federal funding source within the 5-year period immediately preceding the application. The Director shall give priority to institutions or consortia that have not received such funds in the preceding 5 years.

(4) The Director shall, in awarding funds under this title, consider the distribution of funds among institutions of different sizes and geographical locations.

(c) Criteria for the award of funds to any institution for a project under the Program shall include—

(1) the quality of the research and training to be carried out in the facility or facilities involved;

(2) the need for the proposed repair, renovation, or, in exceptional cases, replacement based on an analysis of the age and condition of existing research facilities and equipment;

(3) the congruence of the institution's research and training activities with the future research needs of the Nation and the research mission of the Foundation;

(4) the contribution that the project will make toward meeting national, regional, and institutional research and related training needs;

(5) in the case of an institution that historically has received relatively little Federal research and development funding, the contribution the proposed project will make to improving the institution's academic scientific and engineering infrastructure and broadening the Nation's science and engineering base; and

(6) the impact of the award on the overall geographic distribution of awards made under the Program, with the objective of avoiding undue concentration of awards.

PROCEDURES, GUIDELINES, AND PLANNING ACTIVITIES

SEC. 204. (a)(1) The Director shall, consistent with the objectives of the Program and the criteria set forth in section 203(c) of this Act, set forth procedures for the Program. 42 USC 1862c.

(2) The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of Program objectives, but shall in any event provide that—

(A) funds to carry out the Program will be awarded only on the basis of merit after a comprehensive review using established Foundation procedures;

(B) the membership of merit review panels that assess proposals will be broadly representative of eligible institutions, including research universities and predominantly undergraduate and minority institutions;

(C) the institution receiving an award shall provide at least 50 percent of the cost, in cash or in kind, fairly evaluated, of the repair, renovation, or replacement involved and shall provide this contribution from private or non-Federal public sources, except that the Director may accept a match of less than 50 percent, but at least 30 percent, for institutions which are not ranked among the top 100 of the institutions receiving Federal research and development funding, as documented in the latest annual report of the Foundation entitled "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions"; and

(D) to the extent practicable, eligible institutions of a given type will compete against similar institutions for Program awards.

(b) The Director shall conduct comprehensive planning activities, including surveys of research facility needs and other information-gathering activities, necessary to implement the Program and to develop the procedures called for under subsection (a) of this section.

Federal Register, publication.

(c) Prior to the issuance of the comprehensive plan required by subsection (d) of this section, and consistent with the Program criteria set forth in section 203(c) of this Act, the Director shall publish in the Federal Register proposed Program guidelines for public review for a comment period of 30 days. Such guidelines shall provide detailed information on eligibility, criteria, terms, and conditions and shall include, but not be limited to—

(1) definitions for the terms "institutions of higher education", "private non-profit research organizations", "research museums", "consortia", "facilities", "facilities primarily devoted to research", "instrumentation", "equipment", "repair", "renovation", and "replacement";

(2) selection criteria to be used by the Foundation in evaluating proposals from institutions and consortia thereof, including criteria for evaluating scientific merit and for evaluating the age and condition of existing research facilities; and

(3) requirements for matching a Program award with contributions from non-Federal sources.

(d) The Director, after gathering appropriate information and after considering comments on the proposed Program guidelines published in the Federal Register pursuant to subsection (c) of this section, shall develop a comprehensive plan for the Program that—

(1) defines the appropriate roles and responsibilities of the Federal Government, institutions of higher education, State governments, private foundations, and other appropriate organizations;

(2) states what procedures will be used to ensure that predominantly undergraduate institutions and colleges and universities that historically have received little Federal research and development funding will receive substantial percentages of the funds awarded under this title;

(3) states the estimated percentage of Program funds available for each category of eligible institutions, including

predominantly undergraduate institutions and colleges and universities that historically have received little Federal research and development funding as well as research universities; and

(4) evaluates and addresses, to the maximum extent possible, a variety of factors which include—

(A) the unique circumstances and research facilities needs of research universities, undergraduate institutions, and other institutions whose enrollment includes substantial percentages of minorities underrepresented in science and engineering research;

(B) innovative approaches in the management of the Program that address both short-term and long-term aspects of the renovation, repair, and replacement of academic research facilities;

(C) programmatic approaches that recognize and support excellence, strengthen scientific and engineering research potential and, to the maximum extent possible and consistent with the purposes of this Act, assure an equitable distribution of resources with respect to institutions and geographical areas; and

(D) any recommendations necessary to improve the Program and further meet the purposes of this title.

Reports.

(e) The Director shall prepare and submit, not later than June 15, 1989, a report containing the comprehensive plan required by subsection (d) of this section to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives.

Federal Register, publication.

(f) Final guidelines shall be published in the Federal Register not later than 45 days after the submission of the report required under subsection (e).

(g) The Director shall, from amounts available to the Foundation under section 101(b) of this Act for fiscal year 1989, make available an amount, not to exceed $1,000,000, to carry out the provisions of this section. None of the funds authorized to be appropriated in section 101 of this Act may be used for grant or contract awards under the Program prior to completion and submission to Congress of the comprehensive plan required by subsection (d) of this section.

(h) In conducting the activities under the Program, the Director shall consult with the Secretary of Education and the heads of other related agencies.

SET-ASIDE FOR CERTAIN INSTITUTIONS

42 USC 1862d.

Sec. 205. Of the amounts appropriated to the Foundation for the Program, as authorized under section 101 of this Act, in each fiscal year, at least 12 percent shall be reserved for historically Black

colleges or universities defined as "part B institutions" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) and other institutions of higher education whose enrollment includes a substantial percentage of students who are Black Americans, Hispanic Americans, or Native Americans.

CONFORMING AMENDMENT

42 USC 1861 note, 1862a, 1862b.

Sec. 206. Subtitle E of title IV (sections 6401-6403) of the Omnibus Trade and Competitiveness Act of 1988 is repealed.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4418 (S. 1632):

HOUSE REPORTS: No. 100-649 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-148 (Comm. on Labor and Human Resources) and No. 100-331 (Comm. on Commerce, Science, and Transportation), both accompanying S. 1632.
CONGRESSIONAL RECORD, Vol. 134 (1988):
  June 9, considered and passed House.
  June 17, S. 1632 considered in Senate; proceedings vacated and H.R. 4418, amended, passed in lieu.
  Sept. 27, House concurred in certain Senate amendment, in another with an amendment.
  Oct. 14, Senate concurred in House amendment.

Public Law 100-591
100th Congress

An Act

To amend the Federal Aviation Act of 1958 relating to aviation research.

Nov. 3, 1988
[H.R. 4686]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Aviation Safety Research Act of 1988.
49 USC app. 1301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Research Act of 1988".

SEC. 2. AVIATION MAINTENANCE AND FIRE SAFETY RESEARCH.

Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety, to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for inflight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing post-crash fire hazards.".

SEC. 3. RESEARCH ON RELATIONSHIP BETWEEN HUMAN FACTORS AND AIR SAFETY AND ON DYNAMIC SIMULATION MODELING.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs."

SEC. 4. RESEARCH PLAN AND REPORTS.

(a) In General.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end the following new subsection:

"RESEARCH PLAN AND REPORTS

"(d)(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

"(A) for the first 2 years the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

"(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

"(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority; and

"(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

"(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan transmittal required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(d) Research plan and reports.
"(e) Civil aeromedical research.
"(f) Research advisory committee.".

SEC. 5. CIVIL AEROMEDICAL RESEARCH.

(a) Establishment of Civil Aeromedical Institute.—Section 106 of title 49, United States Code, relating to the Federal Aviation Administration, is amended by adding at the end thereof the following new subsection:

"(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the 'Civil Aeromedical Institute'. Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.".

(b) Civil Aeromedical Research.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"CIVIL AEROMEDICAL RESEARCH

"(e) The Civil Aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized—

"(1) to conduct civil aeromedical research, including, but not limited to, research related to—

"(A) protection and survival of aircraft occupants;

"(B) medical accident investigation and airman medical certification;

"(C) toxicology and the effects of drugs on human performance;

"(D) the impact of disease and disability on human performance;

"(E) vision and its relationship to human performance and equipment design;

"(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other persons involved in the operation and maintenance of aircraft and air traffic control equipment; and

"(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

"(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

"(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

"(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

"(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.".

SEC. 6. ADVISORY COMMITTEE.

Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"RESEARCH ADVISORY COMMITTEE

"(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

"(2) The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

"(3) The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

"(4) The chairman of the advisory committee shall be designated by the Administrator.

"(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

"(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

"(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions.

"(8) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

"(9)(A) Not more than one-tenth of 1 percent of the funds made available to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

"(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.".

SEC. 7. FUNDING.

(a) FISCAL YEAR 1989.—Section 506(b)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(B)) is amended—

(1) in clause (vii), by striking "; and" and inserting in lieu thereof a comma; and

(2) by adding at the end, flush with the margin, the following: "except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects; and".

(b) Fiscal Year 1990.—Section 506(b)(2)(C) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(C)) is amended to read as follows:

"(C) for fiscal year 1990—

"(i) $25,000,000 solely for human factors research projects and activities; and

"(ii) $221,530,000 for all other research projects and activities,

except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects.".

(c) Definition.—Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by adding at the end the following:

"As used in this paragraph, the term 'long-term research project means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project.".

SEC. 8. AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.

49 USC app. 1353 note.

(a) Findings.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

(b) Study on Increased Automation.—

(1) In general.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) Content.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying individuals possessing those attributes and aptitudes.

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

(c) AGREEMENT WITH ADMINISTRATOR OF NASA.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) CONTENT.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decisionmaking on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

(d) AUTHORIZATION OF APPROPRIATIONS.—For conducting research under this section there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

49 USC app. 1353 note.

SEC. 9. CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES.

(a) ADVANCE NOTICE OF PROPOSED RULEMAKING.—In order to ensure greater air safety to passengers of air carriers and reduce the incidence of post-crash fires, the Administrator of the Federal Aviation Administration shall, within 90 days following the date of enactment of this Act, issue an advance notice of proposed rulemaking to determine the feasibility of installing in all air carrier aircraft crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident.

(b) RESEARCH.—Within 60 days following the date of enactment of this Act, the Administrator shall undertake or supervise research to develop technologies which will prevent the spraying or free flow or significant quantities of fuel after an air crash or develop fuels and fuel additives which can reduce rapid fuel dispersal and combustibility, or both.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4686 (S. 2746):

HOUSE REPORTS: No. 100-894 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-584 accompanying S. 2746 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed House.
Oct. 20, considered and passed Senate, amended.
Oct. 21, House concurred in Senate amendment.

Public Law 100-627
100th Congress

An Act

To authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes.

Nov. 7, 1988
[H.R. 4210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMPREHENSIVE OCEAN DUMPING RESEARCH PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 101. RESEARCH TO BE CONSISTENT WITH COMPREHENSIVE PLAN.

Subsection (a) of section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(a)) is amended by adding at the end the following:

"(3) The Secretary of Commerce shall ensure that the comprehensive and continuing research program conducted under this subsection is consistent with the comprehensive plan for ocean pollution research and development and monitoring prepared under section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703).".

SEC. 102. ANNUAL REPORT.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by adding at the end the following:

Reports.

"(c) On October 31 of each year, the Under Secretary shall report to the Congress the specific programs that the National Oceanic and Atmospheric Administration and the Environmental Protection Agency carried out pursuant to this title in the previous fiscal year, specifically listing the amount of funds allocated to those specific programs in the previous fiscal year.".

SEC. 103. AUTHORIZATION.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is amended—

(1) by striking "and" immediately following "fiscal year 1986,"; and

(2) by striking "1987." and inserting in lieu thereof "1987, not to exceed $13,500,000 for fiscal year 1989, and not to exceed $14,500,000 for fiscal year 1990.".

TITLE II—NATIONAL MARINE SANCTUARIES PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 201. DEFINITION OF ACT.

For purposes of this title, the term "Act" means title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-1439).

SEC. 202. SANCTUARY DESIGNATION PROCEDURE AMENDMENTS.

Federal Register, publication.

Paragraph (1) of section 304(b) of the Act (16 U.S.C. 1434(b)(1)) is amended by inserting after the second sentence the following: "The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published.".

SEC. 203. PROMOTION AND COORDINATION OF RESEARCH; SPECIAL USE PERMITS; USE OF DONATIONS.

The Act is amended—

16 USC 1438. (1) by striking section 308;

16 USC 1439. (2) by redesignating section 309 as section 308; and

(3) by adding at the end the following:

16 USC 1440.

"SEC. 309. PROMOTION AND COORDINATION OF RESEARCH.

"The Secretary shall take such action as is necessary to promote and coordinate the use of national marine sanctuaries for research purposes, including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting marine research, give priority to research involving national marine sanctuaries; and

"(2) consulting with other Federal and State agencies to promote use by such agencies of one or more sanctuaries for marine research.

16 USC 1441.

"SEC. 310. SPECIAL USE PERMITS.

"(a) Issuance of Permits.—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

"(1) to establish conditions of access to and use of any sanctuary resource; or

"(2) to promote public use and understanding of a sanctuary resource.

"(b) Permit Terms.—A permit issued under this section—

"(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

"(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

"(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

"(4) shall require the permittee to purchase and maintain comprehensive general liability insurance against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

"(c) Fees.—

"(1) Assessment and collection.—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

"(2) AMOUNT.—The amount of a fee under this subsection shall be equal to the sum of—

"(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

"(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

"(C) an amount which represents the fair market value of the use of the sanctuary resource and a reasonable return to the United States Government.

"(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

"(A) for issuing and administering permits under this section; and

"(B) for expenses of designating and managing national marine sanctuaries.

"(d) VIOLATIONS.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—

"(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

"(2) assess a civil penalty in accordance with section 307; or

"(3) both.

"(e) REPORTS.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

"(f) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

"SEC. 311. COOPERATIVE AGREEMENTS AND DONATIONS.

16 USC 1442.

"(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with any nonprofit organization—

"(1) to aid and promote interpretive, historical, scientific, and educational activities; and

"(2) for the solicitation of private donations for the support of such activities.

"(b) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title.".

SEC. 204. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) LIABILITY FOR DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.—The Act is amended by adding at the end the following:

"SEC. 312. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

16 USC 1443.

"(a) LIABILITY.—

"(1) IN GENERAL.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

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"(2) Liability in rem.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(3) Defenses.—A person is not liable under this subsection if that person establishes that—

"(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

"(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

"(C) the destruction, loss, or injury was negligible.

"(b) Response Actions and Damage Assessment.—

"(1) Response actions.—The Secretary may undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

Maritime affairs.

"(2) Damage assessment.—The Secretary shall assess damages to sanctuary resources in accordance with section 302(6).

"(c) Civil Actions for Response Costs and Damages.—The Attorney General, upon request of the Secretary, may commence a civil action in the United States district court for the appropriate district against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

"(d) Use of Recovered Amounts.—Response costs and damages recovered by the Secretary under this section and civil penalties under section 307 shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9607(f)(1)), and used as follows:

"(1) Response costs and damage assessments.—Twenty percent of amounts recovered under this section, up to a maximum balance of $750,000, shall be used to finance response actions and damage assessments by the Secretary.

"(2) Restoration, replacement, management, and improvement.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

"(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

"(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

"(C) to manage and improve any other national marine sanctuary.

"(3) Use of civil penalties.—Amounts recovered under section 307 in the form of civil penalties shall be used by the Secretary in accordance with section 307(e) and paragraphs (2) (B) and (C) of this subsection.

"(4) Federal-state coordination.—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2) (A) and (B) in accordance with an agreement entered into by the Secretary and the Governor of that State.".

(b) DAMAGES, RESPONSE COSTS, AND SANCTUARY RESOURCE DEFINED.—Section 302 of the Act (16 U.S.C. 1432) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period in paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) 'damages' includes—

"(A) compensation for—

"(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

"(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

"(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired; and

"(B) the cost of damage assessments under section 312(b)(2);

"(7) 'response costs' means the costs of actions taken by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury; and

"(8) 'sanctuary resource' means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the sanctuary.".

16 USC 1443 note.

(c) EFFECTIVE DATE.—Amounts in the form of damages received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(8) of the Act (as amended by this Act)) shall be subject to section 312 of the Act (as amended by this Act).

SEC. 205. ACTIONS WITH RESPECT TO NEW SANCTUARIES.

(a) ISSUANCE OF NOTICE OF DESIGNATION.—The Secretary of Commerce shall issue a notice of designation under section 304(b)(1) of the Act (16 U.S.C. 1434(b)(1))—

(1) with respect to the proposed Cordell Banks National Marine Sanctuary as generally described in the Federal Register notice of June 30, 1983, not later than December 31, 1988;

(2) with respect to the Flower Garden Banks National Marine Sanctuary as generally described in the Federal Register notice of August 2, 1984, not later than March 31, 1989;

(3) with respect to the Monterey Bay National Marine Sanctuary as generally described in the Federal Register notice of December 31, 1979, not later than December 31, 1989; and

(4) with respect to the Western Washington Outer Coast National Marine Sanctuary as generally described in the Federal Register notice of August 4, 1983, not later than June 30, 1990.

(b) SUBMISSION OF PROSPECTUSES.—The Secretary of Commerce shall submit a prospectus under section 304(a)(1)(C) and (a)(5) of the Act (16 U.S.C. 1434(a)(1)(C) and (a)(5)) to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate—

(1) with respect to the Stellwagen Bank National Marine Sanctuary, as generally described in the Federal Register notice of August 4, 1983, not later than September 30, 1990; and

(2) with respect to the Northern Puget Sound National Marine Sanctuary, as generally described as the Washington State Nearshore area in the Federal Register notice of August 4, 1983, not later than March 31, 1991.

SEC. 206. STUDY OF AREAS FOR DESIGNATION AS OR INCLUSION IN NATIONAL MARINE SANCTUARIES.

(a) **Study.**—

(1) **In general.**—The Secretary of Commerce shall conduct a study of the areas described in subsection (c) for purposes of making determinations and findings in accordance with section 303(a) of the Act (16 U.S.C. 1433(a))—

(A) regarding whether or not all or any part of such areas are appropriate for designation as national marine sanctuaries in accordance with the Act; and

(B) regarding whether or not all or any part of the areas described in subsection (c) (1), (2), and (3) should be added to and administered as part of the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary.

(2) **Report.**—Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate which sets forth the determinations and findings referred to in paragraph (1).

(b) **Designation or Expansion of Marine Sanctuaries.**—If as a result of a study conducted pursuant to subsection (a) the Secretary of Commerce makes the determinations and findings set forth in section 303(a) of the Act (16 U.S.C. 1433(a)) with respect to all or any part of the areas described in subsection (c), the Secretary of Commerce, in accordance with the procedures for the designation of national marine sanctuaries set forth in section 304 of the Act (16 U.S.C. 1434)—

(1) shall designate such areas or parts of such areas as national marine sanctuaries; or

(2) shall, with respect to all or any part of the areas described in subsections (c) (1), (2), and (3), add such areas or parts of such areas to the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary;

as the Secretary of Commerce considers appropriate.

(c) **Areas Described.**—The areas referred to in subsections (a) and (b) are the following:

Florida.

(1) **American shoal.**—The portion of the marine environment in the Florida Keys in the vicinity of American Shoal, including the part of such environment located generally between such shoal and the Marquesas Keys.

(2) **Sombrero key.**—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Sombrero Key.

(3) **Alligator reef.**—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Alligator Reef, including the portion located generally between such reef and the Key Largo National Marine Sanctuary.

California.

(4) SANTA MONICA BAY.—The portion of the marine environment off the coast of California commonly referred to as Santa Monica Bay, consisting of an area described generally as follows: Beginning at the point known as Point Dume near the western extent of Santa Monica Bay, proceed generally southeast along the shoreline to the point known as Point Vincente near the southern extent of Santa Monica Bay; then west to the 900 meter bathymetric contour; then generally northwest along the 900 meter bathymetric contour to a point due west of Point Dume; then east to Point Dume at the point of beginning.

(d) DEFINITION OF MARINE ENVIRONMENT.—For the purposes of this section, the term "marine environment" has the meaning such term has in section 302(3) of the Act (16 U.S.C. 1432(b)).

SEC. 207. ENFORCEMENT AMENDMENTS.

Section 307 of the Act (16 U.S.C. 1437) is amended to read as follows:

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

"(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this title may—

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"(1) board, search, inspect, and seize any vessel suspected of being used to violate this title or any regulation or permit issued under this title and any equipment, stores, and cargo of such vessel;

"(2) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title;

"(3) seize any evidence of a violation of this title or of any regulation or permit issued under this title;

"(4) execute any warrant or other process issued by any court of competent jurisdiction; and

"(5) exercise any other lawful authority.

"(c) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

Maritime affairs.

"(3) IN REM JURISDICTION.—A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction.

"(4) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

"(5) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(6) Compromise or other action by secretary.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

"(d) Forfeiture.—

Maritime affairs.

"(1) In general.—Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection.

"(2) Application of the customs laws.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

"(3) Disposal of sanctuary resources.—Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

"(4) Presumption.—For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

"(e) Payment of Storage, Care, and Other Costs.—

"(1) In general.—Notwithstanding any other law, the Secretary may use amounts received under this section in the form of civil penalties, forfeitures of property, and costs imposed under paragraph (2) to pay—

"(A) the reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such property or sanctuary resource was seized; and

"(B) a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or of any regulation or permit issued under this title.

"(2) Liability for costs.—Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of any sanctuary resource or other property seized in connection with the violation.

"(f) Subpoenas.—In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths.

"(g) Use of Resources of State and Other Federal Agencies.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

"(h) Coast Guard Authority Not Limited.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

"(i) Injunctive Relief.—If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 312, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.". Courts, U.S.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS; U.S.S. MONITOR ARTIFACTS AND MATERIALS.

The Act is amended by adding at the end the following:

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS.

16 USC 1444.

"There are authorized to be appropriated to the Secretary to carry out this title the following:

"(1) General administration.—For general administration of this title—

"(A) $1,800,000 for fiscal year 1989;
"(B) $1,900,000 for fiscal year 1990;
"(C) $2,000,000 for fiscal year 1991; and
"(D) $2,100,000 for fiscal year 1992.

"(2) Management of sanctuaries.—For management of national marine sanctuaries designated under this title—

"(A) $2,000,000 for fiscal year 1989;
"(B) $2,500,000 for fiscal year 1990;
"(C) $3,000,000 for fiscal year 1991; and
"(D) $3,250,000 for fiscal year 1992.

"(3) Site review and analysis.—For review and analysis of sites for designation under this title as national marine sanctuaries—

"(A) $450,000 for fiscal year 1989;
"(B) $500,000 for fiscal year 1990;
"(C) $550,000 for fiscal year 1991; and
"(D) $600,000 for fiscal year 1992.

North Carolina.
16 USC 1445.

"SEC. 314. U.S.S. MONITOR ARTIFACTS AND MATERIALS.

"(a) CONGRESSIONAL POLICY.—In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

"(b) INTERPRETATION AND DISPLAY OF ARTIFACTS.—

"(1) SUBMISSION OF PLAN.—The Secretary shall, within six months after the date of the enactment of this section, submit to the Committee on Merchant Marine and Fisheries of the House of Representatives a plan for a suitable display in coastal North Carolina of artifacts and materials of the United States ship Monitor.

"(2) CONTENTS OF PLAN.—The plan submitted under subsection (a) shall, at a minimum, contain—

"(A) an identification of appropriate sites in coastal North Carolina, either existing or proposed, for display of artifacts and materials of the United States ship Monitor;

"(B) an identification of suitable artifacts and materials, including artifacts recovered or proposed for recovery, for display in coastal North Carolina;

"(C) an interpretive plan for the artifacts and materials which focuses on the sinking, discovery, and subsequent management of the wreck of the United States ship Monitor; and

"(D) a draft cooperative agreement with the State of North Carolina to implement the plan.

"(c) DISCLAIMER.—This section shall not affect the following:

"(1) RESPONSIBILITIES OF SECRETARY.—The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

Virginia.

"(2) AUTHORITY OF SECRETARY.—The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).".

Maritime affairs.

SEC. 209. CHANNEL ISLANDS NATIONAL MARINE SANCTUARY PROTECTION.

(a) REPORT.—The Secretary of Transportation, not later than 6 months after the date of the enactment of this Act, shall transmit to Congress—

(1) the provisions of international conventions and United States laws and regulations which reduce the risk of a vessel collision or incident resulting in damage to the environment in the Channel Islands National Marine Sanctuary;

(2) the provisions of the National Contingency Plan for removal of oil and hazardous substances prepared under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) which enable the Secretary to effectively respond to an oil pollution incident in or affecting the Channel Islands National Marine Sanctuary;

(3) a list of pollution exercises conducted under that National Contingency Plan in the Santa Barbara Channel before the date of the enactment of this Act, and a schedule of pollution exer-

cises scheduled to be conducted under that plan in that channel during the 12 months following the date of the enactment of this Act; and

(4) a report on the establishment—

(A) under the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) of safety fairways off the coast of California; and

(B) of the Long Beach NAVTEX in Long Beach, California.

(b) STUDY REVIEW AND REPORT.—The Secretary of Transportation shall review all Federal, State, and local studies conducted on the hazards of shipping operations and the risks those operations pose to the environment and natural resources of the Channel Islands National Marine Sanctuary, and report to the Congress not later than 6 months after the date of the enactment of this Act on the status and recommendations of each of those studies. The Secretary shall include in the report a recommendation on whether an alternate vessel traffic separation scheme would reduce the risks of shipping operations to the environment and natural resources in the Channel Islands National Marine Sanctuary.

(c) PROPOSAL OF DESIGNATION OF AREA TO BE AVOIDED.—The Secretary of Transportation shall prepare and submit a proposal to the International Maritime Organization to designate the portion of the Channel Islands National Marine Sanctuary which is outside of the Santa Barbara Channel Traffic Separation Scheme, as an area to be avoided. The Secretary shall ensure that the proposal would not result in undue interference with international vessel traffic in the Santa Barbara Channel, with operations associated with the United States Navy Pacific Missile Test Range, or with enjoyment of the Channel Islands National Marine Sanctuary under title III of the National Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

16 USC 1432 note.

SEC. 210. REGULATIONS.

Not later than one year after the date of the enactment of this Act, the Secretary of Commerce—

(1) shall propose regulations implementing the amendments made by this title; and

(2) shall issue final regulations implementing the amendments made by the Marine Sanctuaries Amendments of 1984.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4210:

HOUSE REPORTS: No. 100-624, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendments.

Public Law 100-636
100th Congress

An Act

Nov. 8, 1988
[H.R. 4211]

To reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701-1709) is amended as follows:

(1) Paragraph (1) of section 3 (33 U.S.C. 1702(1)) is amended to read as follows:

"(1) The term "Administration" means the National Oceanic and Atmospheric Administration of the United States Department of Commerce.".

(2) Paragraph (2) of section 3 (33 U.S.C. 1702(2)) is repealed.

(3) Paragraphs (3), (4), (5), (6), (7), and (8) of section 3 (33 U.S.C. 1702 (3), (4), (5), (6), (7), and (8)) are redesignated as paragraphs (2), (3), (4), (5), (6), and (7), respectively.

(4) Section 3 is amended by inserting after paragraph (7) (as redesignated) the following:

"(8) The term "Under Secretary" means the Under Secretary for Oceans and Atmosphere, United States Department of Commerce.".

(5) The term "Administrator" is struck each place it appears and the term "Under Secretary" is inserted in lieu thereof.

(6) Subparagraph (B) of section 3A(a)(2) (33 U.S.C. 1702a(a)(2)(B)) is amended to read as follows:

"(B) be headed by a director who shall—

"(i) be appointed by the Under Secretary, and

"(ii) be the official responsible for the administration of the program;".

(7) Subparagraph (B) of section 3A(b)(2) (33 U.S.C. 1702a(b)(2)(B)) is amended to read as follows:

Reports.

"(B) review all department and agency budget requests transmitted to it under section 4 of this Act and submit a report simultaneously to the Office of Management and Budget and to the Congress concerning those budget requests;".

(8) Section 10 (33 U.S.C. 1709) is amended—

(A) by striking "and" immediately following "1986"; and

(B) by striking "1987." and inserting in lieu thereof "1987, not to exceed $3,750,000 for fiscal year 1989, and not to exceed $4,000,000 for fiscal year 1990.".

Approved November 8, 1988.

LEGISLATIVE HISTORY—H.R. 4211:

HOUSE REPORTS: No. 100-657, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 19, considered and passed Senate.

PUBLIC LAW 100-657—NOV. 15, 1988

COMMERCIAL SPACE LAUNCH ACT AMENDMENTS OF 1988

Public Law 100-657
100th Congress

An Act

Nov. 15, 1988
[H.R. 4399]

To facilitate commercial access to space, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commercial Space Launch Act Amendments of 1988.
49 USC app. 2601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Space Launch Act Amendments of 1988".

49 USC app. 2601 note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) a United States commercial space launch industry is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the use of the United States commercial space launch industry in order to continue United States aerospace preeminence;

(3) the United States commercial space launch industry must be competitive in the international marketplace;

(4) Federal Government policies should recognize the responsibility of the United States under international treaty for activities conducted by United States citizens in space; and

(5) the United States must maintain a competitive edge in international commercial space transportation by ensuring continued research in launch vehicle component technology and development.

SEC. 3. DEFINITIONS.

Section 4 of the Commercial Space Launch Act (49 U.S.C. App. 2603) is amended—

(1) in paragraph (10) by striking "and" at the end;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting immediately after paragraph (10) the following new paragraph:

"(11) 'third party' means any person or entity other than—

"(A) the United States, its agencies, or its contractors or subcontractors involved in launch services;

"(B) the licensee or transferee;

"(C) the licensee's or transferee's contractors, subcontractors, or customers involved in launch services; or

"(D) any such customer's contractors or subcontractors involved in launch services; and".

SEC. 4. PRIVATE ACQUISITION OF GOVERNMENT PROPERTY AND SERVICES.

(a) Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended by adding at the end the following: "In taking such actions, the Secretary shall consider the commercial availability, on reasonable terms and conditions, of substantially equivalent launch property or launch services from a domestic source.".

(b) Section 15(b)(1) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)(1) is amended by adding at the end the following: "For purposes of this paragraph, the term 'direct costs' means the actual costs that can be unambiguously associated with a commercial launch effort, and would not be borne by the United States Government in the absence of a commercial launch effort.".

(c) Section 15 of the Commercial Space Launch Act (49 U.S.C. App. 2614) is amended by adding at the end the following new subsection:

"(d) The head of any Federal agency or department may collect payment for activities involved in the production of a launch vehicle or its payload for launch if such activities were agreed to by the owners or manufacturers of such launch vehicle or payload.".

SEC. 5. INSURANCE REQUIREMENTS OF LICENSEE.

(a) Section 16 of the Commercial Space Launch Act (49 U.S.C. App. 2615) is amended to read as follows:

"LIABILITY INSURANCE

Claims.

"SEC. 16. (a)(1)(A) Each license issued or transferred under this Act shall require the licensee or transferee—

"(i) to obtain liability insurance; or

"(ii) to demonstrate financial responsibility,

in an amount sufficient to compensate the maximum probable loss (as determined by the Secretary, after consultation with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate agencies) from claims by a third party for death, bodily injury, or loss of or damage to property resulting from activities carried out under the license in connection with any particular launch. In no event shall a licensee or transferee be required to obtain insurance or demonstrate financial responsibility under this subparagraph, with respect to the aggregate of such claims arising out of any particular launch, in an amount which exceeds (I) $500,000,000 or (II) the maximum liability insurance available on the world market at a reasonable cost, if such insurance is less than the amount in subclause (I).

"(B) Each license issued or transferred under this Act shall require the licensee or transferee—

"(i) to obtain liability insurance; or

"(ii) to demonstrate financial responsibility,

in an amount sufficient to compensate the maximum probable loss (as determined by the Secretary, after consultation with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate agencies) from claims against any person by the United States for loss of or damage to property of the United States resulting from activities carried out under the license in connection with any particular launch. In no event shall a licensee or transferee be required to obtain insurance or demonstrate financial responsibility under this subparagraph, with respect to the aggregate of such claims arising out of any particular launch, in an amount which exceeds (I) $100,000,000 or (II) the maximum liability insurance available on the world market at a reasonable cost, if such insurance is less than the amount in subclause (I).

"(C) Each license issued or transferred under this Act shall require the licensee or transferee to enter into reciprocal waivers of claims with its contractors, subcontractors, and customers, and the contractors and subcontractors of such customers, involved in launch services, under which each party to each such waiver agrees to be responsible for any property damage or loss it sustains or for any personal injury to, death of, or property damage or loss sustained by its own employees resulting from activities carried out under the license.

"(D) The Secretary, on behalf of the United States, its agencies involved in launch services, and contractors and subcontractors involved in launch services, shall enter into reciprocal waivers of claims with the licensee or transferee, its contractors, subcontractors, and customers, and the contractors and subcontractors of such customers, involved in launch services, under which each party to each such waiver agrees to be responsible for any property damage or loss it sustains or for any personal injury to, death of, or property damage or loss sustained by its own employees resulting from activities carried out under the license. Any such waiver shall apply only to the extent that claims exceed the amount of insurance or demonstration of financial responsibility required under subparagraph (B). After consultation with the Administrator of the National Aeronautics and Space Administration and the Secretary of the Air Force, the Secretary may also waive, on behalf of the United States and any Federal agency, the right to recover any damages for loss of or damage to property of the United States to the extent insurance is not available by reason of policy exclusions which are determined by the Secretary to be usual for the type of insurance involved.

"(2) Any insurance policy obtained, or demonstration of financial responsibility made, pursuant to a requirement described in paragraph (1) shall protect the United States, its agencies, personnel, contractors, and subcontractors, and all contractors, subcontractors, and customers of the licensee or transferee, and all contractors and subcontractors of such customers, involved in providing the launch services, to the extent of their potential liabilities, at no cost to the United States.

Reports.

"(3) The Secretary shall determine the maximum probable loss under paragraph (1) (A) and (B) associated with activities under a license, within 90 days after a licensee or transferee has required such a determination and has submitted all information the Secretary requires to make such a determination. The Secretary shall amend such determination as warranted by new information. Within 12 months after the date of enactment of the Commercial Space Launch Act Amendments of 1988, and within each 12-month period thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the current determinations with respect to all issued licenses and the reasons for those determinations.

Reports.

"(4) Within 6 months after the date of enactment of the Commercial Space Launch Act Amendments of 1988, and within each 12-month period thereafter, the Secretary shall review the amounts specified in paragraph (1) (A)(I) and (B)(I), and shall submit a report to the Congress which, if appropriate, contains a proposed adjustment to such amounts to conform with altered liability expectations and availability of insurance on the world market. Such proposed adjustment shall take effect 30 days after the submission of such report.

"(b)(1) To the extent provided in advance in appropriations Acts or to the extent there is enacted additional legislative authority to provide for the payment of claims as submitted in the compensation plan outlined in paragraph (4), the Secretary shall provide for the payment by the United States of successful claims (including reasonable expenses of litigation or settlement) of a third party against the licensee or transferee, or its contractors, subcontractors, or customers, or the contractors or subcontractors of such customers, resulting from activities carried out pursuant to a license issued or transferred under this Act for death, bodily injury, or loss of or damage to property resulting from activities carried out under the license, but only to the extent that the aggregate of such successful claims arising out of any particular launch—

"(A) is in excess of the amount of insurance or demonstration of financial responsibilities required under subsection (a)(1)(A); and

"(B) is not in excess of the level that is $1,500,000,000 (plus any additional sums necessary to reflect inflation occurring after January 1, 1989) above such amount.

The Secretary shall not provide for payment of any part of such claim for which the death, bodily injury, or loss of or damage to property has resulted from willful misconduct by the licensee or transferee. To the extent insurance required pursuant to subsection (a)(1)(A) is not available to cover any such successful third party liability claim by reason of insurance policy exclusions determined by the Secretary to be usual for the type of insurance involved, the Secretary may provide for the payment of such excluded claims without regard to the limitation expressed in subparagraph (A).

"(2) The payment of claims under paragraph (1) shall be subject to—

"(A) notice to the United States of any claim, or suit associated with such claim, against a party described in paragraph (1) for death, bodily injury, or loss of or damage to property;

"(B) participation or assistance in the defense by the United States, at its election, of that claim or suit; and

"(C) approval by the Secretary of that portion of any settlement which is to be paid out of appropriated funds of the United States.

"(3) The Secretary may withhold payment under paragraph (1) if the Secretary certifies that the amount is not just and reasonable, except that the amount of any claim determined by the final judgment of a court of competent jurisdiction shall be deemed by the Secretary to be just and reasonable.

Reports.

"(4)(A) If as a result of activities carried out under a license issued or transferred under this Act the aggregate of the claims arising out of a particular launch are likely to exceed the amount of insurance or demonstration of financial responsibility required under the license, the Secretary shall (i) make a survey of the causes and extent of damage and (ii) expeditiously submit to the Congress a report setting forth the results of such survey.

President of U.S.

"(B) Not later than 90 days after any determination by a court indicating that the liability for the aggregate of claims arising out of a particular launch under such a license may exceed the amount of insurance or demonstration of financial responsibility required under the license, the President, on the recommendation of the Secretary, shall submit to the Congress a compensation plan or plans that (i) outlines the aggregate dollar value of such claims; (ii` recommends sources of funding to pay for these claims; and (iii) includes any legislative language required to implement the compensation plan or plans if additional legislative authority is required. No compensation plan for a single event or incident may exceed the aggregate of $1,500,000,000.

"(C) Any compensation plan transmitted to the Congress pursuant to subparagraph (B) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

"(D)(i) The provisions of this subparagraph shall apply with respect to consideration in the Senate of any such compensation plan and to Senate action on such compensation plan.

"(ii) Any such compensation plan that requires additional appropriations or additional legislative authority must be considered by the Senate pursuant to this subparagraph within 60 calendar days of continuous session of Congress after the date on which such plan is transmitted to the Congress.

"(iii) For the purposes of this subparagraph, the term 'resolution' means only a joint resolution of Congress the matter after the resolving clause of which is as follows: 'That the approves the compensation plan numbered submitted to the Congress on , 19 .', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which includes more than one compensation plan.

"(iv) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

"(v)(I) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

"(II) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(III) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

"(vi)(I) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(II) Debate on the resolution referred to in subclause (I) of this clause shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(vii)(I) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

"(II) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to resolution shall be decided without debate.

"(5) The provisions of paragraphs (1) through (4) shall apply only to each license issued or transferred under this Act for which a complete and valid application has been received by the Secretary prior to the date that is 5 years following the date of enactment of the Commercial Space Launch Act Amendments of 1988.

"(c) The head of any Federal agency or department shall collect insurance proceeds or any other payment owed for the loss of or damage to Government property under its jurisdiction or control resulting from activities carried out under a license issued or transferred under this Act. Such proceeds or other payment shall be credited to the current applicable appropriations, funds, or accounts of that agency or department.".

(b) Section 15(c) of the Commercial Space Launch Act (49 U.S.C. App. 2614(c)) is amended to read as follows:

"(c) Consistent with the requirements of this Act, the Secretary shall establish requirements for proof of financial responsibility and such other assurances as may be necessary to protect the United States and its agencies and personnel from liability, death, bodily injury, or loss of or damage to property as a result of a launch or operation of a launch site involving Government facilities or personnel. The Secretary may not under this subsection relieve the United States of liability for death, bodily injury, or loss of or damage to property resulting from the willful misconduct of the United States or its agents.".

SEC. 6. UNITED STATES LAUNCH INCENTIVES FOR CERTAIN SATELLITES.

49 USC app. 2615 note.

(a) The requirements of subsection (a)(1)(B) of section 16 of the Commercial Space Launch Act (49 U.S.C. App. 2615), as amended by this Act, shall not apply to eligible satellites.

(b) To the extent approved in appropriations Acts, the United States shall not require payment for the provision of launch services in connection with the commercial launch of an eligible satellite.

(c) For purposes of this section, the term "eligible satellite" means a satellite that—

(1) was under construction on August 15, 1986;

(2) was the subject of a launch services agreement or contract with the National Aeronautics and Space Administration, which as of August 15, 1986, was in effect and not yet carried out; and

(3) is licensed for launch under the Commercial Space Launch Act.

SEC. 7. PREEMPTION OF SCHEDULED LAUNCHES.

Section 15(b) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)) is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary, with the cooperation of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, shall take steps to ensure that the launches of payloads with respect to which a launch date commitment from the United States has been obtained for a launch licensed under this Act are not preempted from access to United States launch sites or launch property, except in cases of imperative national need. Any determination of imperative national need shall be made by the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration, in consultation with the Secretary, and shall not be delegated. A licensee or transferee preempted from access to a launch site or launch property shall not be required to pay to the United States any amount for launch services solely attributable to the scheduled launch prevented by such preemption.

Reports.

"(B) The Secretary of Defense or the Administrator of the National Aeronautics and Space Administration, in cooperation with the Secretary, as the case may be, shall report to the Congress within 7 days after any determination of imperative national need under subparagraph (A), including an explanation of the circumstances justifying such determination and a schedule for ensuring the prompt launching of a preempted payload."

SEC. 8. STUDY OF PROCESS FOR SCHEDULING LAUNCHES.

The Secretary of Transportation, in cooperation with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, and in consultation with representatives of the space launch and satellite industry, shall study ways and means of scheduling Government and commercial payloads on commercial launch vehicles at Government launch sites in a manner which—

(1) makes the best practicable use of the launch property of the United States; and

(2) assures that the launch property of the United States that is available for commercial use will be available on a commercially reasonable basis,

consistent with the objectives of the Commercial Space Launch Act.

Reports.

The Secretary shall report the results of such study to the Congress within 90 days after the date of enactment of this Act.

SEC. 9. COMMERCIAL SPACE LAUNCH SERVICE COMPETITION.

It is the sense of the Congress that the United States should explore ways and means of developing a dialogue with appropriate foreign government representatives to seek the development of guidelines for access to launch services by satellite builders and users in a manner that assures the conduct of reasonable and fair international competition in commercial space activities.

SEC. 10. LAUNCH VEHICLE RESEARCH AND DEVELOPMENT.

The Administrator of the National Aeronautics and Space Administration shall, in consultation with representatives of the space launch and satellite industry, design a program for the support of research into launch systems component technologies, for the purpose of developing higher performance and lower cost United States launch vehicle technologies and systems available for the launch of commercial and Government spacecraft into orbit. The Administrator shall submit a report outlining such program to the Congress within 60 days after the date of enactment of this Act.

Reports.

SEC. 11. APPLICABILITY TO LICENSES.

49 USC app. 2603 note.

This Act, and the amendments made by this Act, shall apply to all licenses issued under the Commercial Space Launch Act before, on, or after the date of enactment of this Act.

Approved November 15, 1988.

LEGISLATIVE HISTORY—H.R. 4399:

HOUSE REPORTS: No. 100-639 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-593 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
  May 24, considered and passed House.
  Oct. 14, considered and passed Senate, amended.
  Oct. 21, House concurred in Senate amendment.

Public Law 100-680
100th Congress

An Act

To promote energy conservation and technology competitiveness in the American steel and aluminum industries.

Nov. 17, 1988
[S. 2470]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988.
Research and development.
15 USC 5101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988".

15 USC 5101.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) maintaining viable domestic steel, aluminum, copper, and other metals industries is vital to the national security and economic well being of the United States; and

(2) the promotion of technology competitiveness and energy conservation in the American steel and aluminum industries by the Federal Government through a program of joint research and development will help maintain viable domestic steel and aluminum industries.

(b) PURPOSES.—The purposes of this Act are to—

(1) increase the energy efficiency and enhance the competitiveness of American steel, aluminum, and copper industries by providing Federal incentives for the establishment of public-private sector research and development partnerships to undertake scientific research and development to develop advanced technologies utilizing the expertise of the steel, aluminum, copper, and other metals industries, Government-owned laboratories of the Department of Energy and the National Institute of Standards and Technology, universities, State development agencies, and others; and

(2) continue steel research and development initiative efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190).

15 USC 5102.

SEC. 3. DEFINITIONS.

As used in this Act—

(1) the term "Secretary" means the Secretary of Energy;

(2) the term "domestic company" means a company which is substantially involved in the United States domestic production, processing, or use of steel, aluminum, copper, or other metals and has a substantial percentage of its operations located within the United States;

(3) the terms "management plan" and "plan" mean the Steel Initiative Management Plan issued on April 1, 1987, by the Department of Energy, which establishes the management

framework for the steel research and development initiative, and updates to that plan; and

(4) the term "research plan" means the Steel Initiative Research Plan issued in April 1988 by the Department of Energy, and updates to that plan.

15 USC 5103.

SEC. 4. ESTABLISHMENT OF SCIENTIFIC RESEARCH AND DEVELOPMENT PROGRAM TO DEVELOP COMPETITIVE MANUFACTURING TECHNOLOGIES AND INCREASE ENERGY EFFICIENCY IN THE STEEL AND ALUMINUM INDUSTRIES.

(a) General Authority.—The Secretary, pursuant to the authority provided under provisions of the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), shall reestablish an industrial energy conservation and competitive technology program to conduct scientific research and development of steel and aluminum technologies to carry out the purposes of this Act. Such program shall provide the financial and technical assistance and other incentives which, in the judgment of the Secretary, are necessary to carry out the purposes of this Act.

(b) Management Plan.—Within 6 months after the date of enactment of this Act, the Secretary shall publish an update of the management plan to expand the steel research and development initiative to include aluminum and to carry out the purposes of this Act. The Secretary, from time to time, may further update the management plan. The management plan shall be subject to the following conditions:

(1) For newly initiated research and development proposals submitted under the revised management plan, the non-Federal financial share shall equal at least 30 percent of the total cost of any project.

(2) Existing facilities, equipment, supplies, and other property may be included in the non-Federal share under this section only when they are directly relevant to the project.

(3) The knowledge resulting from research and development activities conducted under this Act shall be developed for the benefit of the domestic companies who provide financial resources to the program.

Classified information.

(4) The Secretary, for a period of up to 5 years after the development of information that—

(A) results from research and development activities conducted under this Act; and

(B) would be a trade secret or commercial or financial information that is privileged or confidential, as described in section 5(a), if the information had been obtained from a domestic company,

may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.

(5) The plan shall assure basic research support, for the research carried out under the research plan, from independent laboratories, universities, and nonprofit organizations, by coordinating activities under the research plan with the basic research efforts of the Department of Energy, such as the Energy Conversion and Utilization Technologies Program and the Materials Processing and Sensor and Controls programs within the Office of Industrial Programs.

(c) Priorities.—Within 6 months after the date of enactment of this Act, the Secretary shall publish an update of the research plan. In reviewing research and development activities for possible inclusion in the research plan, the Secretary shall consider the following:

(1) Steel projects.—

(A) The direct production of liquid steel from domestic materials.

(B) The production of near-net shape forms from liquid, powder, or solid steel.

(C) The development of universal grades of steel.

(D) The application of automatic processing technology.

(E) The removal of residual elements from steel scrap.

(F) The treatment and storage of waste materials and other byproducts from steel production and processing.

(G) The development of super-plastic steel processing.

(H) The development of advanced coatings for sheet steels.

(I) The development of technologies and equipment related to the production of steel that enhance the protection of the environment and the safety and health of workers.

(J) Other steel technologies which, in the judgment of the Secretary, further the purposes of this Act.

(2) Aluminum and other projects.—

(A) The production of aluminum.

(B) The application of automatic processing technology.

(C) The treatment and storage of waste materials and other byproducts from aluminum production and processing.

(D) The manufacture of aluminum mill products.

(E) Aluminum recycling technologies.

(F) The development of technologies and equipment related to the production of aluminum that enhance the protection of the environment and the safety and health of workers.

(G) Aluminum, copper, and other metals technologies which, in the judgment of the Secretary, further the purposes of this Act.

(d) Industry Participation and Review.—The Secretary shall arrange for participation and review by representatives of each affected industry and by labor in the updating of the management and research plans and in the evaluation of the progress of research and development activities for their industry conducted under this Act.

SEC. 5. PROTECTION OF PROPRIETARY RIGHTS.

15 USC 5104.

Classified information.

(a) Proprietary Rights.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a domestic company shall be disclosed in the conduct of the management plan or research plan, or as a result of activities under this Act.

(b) Patent Rights Vested in the United States.—All patent rights from inventions developed under the management plan or the research plan implemented pursuant to this Act shall be vested in accordance with section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901).

15 USC 5105.

SEC. 6. COORDINATION.

The Secretary shall coordinate the research and development conducted under this Act with other research and development being conducted by the Department of Energy and other Federal agencies in order to increase efficiency and avoid duplication of effort.

15 USC 5106.

SEC. 7. EXPANDED STEEL AND ALUMINUM RESEARCH PROGRAM IN NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

The National Institute of Standards and Technology, through its Institute for Materials Science and Engineering and, as appropriate, in coordination with the Department of Energy and other Federal agencies, shall conduct an expanded program of steel and aluminum research to provide necessary instrumentation and measurement research and development in support of activities conducted under this Act.

15 USC 5107.

SEC. 8. REPORTS.

The Secretary shall prepare and submit annually to the President and the Congress at the close of each fiscal year a complete report of the research and development activities carried out under this Act during the fiscal year involved, including the actual and anticipated obligation of funds, for such activities, together with such recommendations as the Secretary may consider appropriate for further legislative, administrative, and other actions, including actions by the American steel, aluminum, copper, and other metals industries, which should be taken in order to achieve the purposes of this Act. The report submitted at the close of fiscal year 1991 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this Act.

15 USC 5108.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) To the Secretary.—(1) There are authorized to be appropriated to the Secretary, to carry out the functions of the Department of Energy under this Act, $2,000,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $25,000,000 for fiscal year 1991.

(2) Funds previously appropriated for the steel research and development initiative—

(A) under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190); or

(B) under subsequent appropriation Acts,

which remain available under the terms of such Acts may be used for the purposes of this Act.

(b) To the Institute.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the functions of the Institute under this Act, $3,000,000 for each of the fiscal years 1989, 1990, and 1991.

15 USC 5109.

SEC. 10. RELATION OF EXISTING PROGRAM.

Proposals received by the Department of Energy before the date of enactment of this Act may be carried out without regard to changes in the management plan and research plan required by this Act.

SEC. 11. DRUG-FREE WORKPLACE.

15 USC 5110.

(a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this Act for fiscal year 1989, fiscal year 1990, or fiscal year 1991, or under any other Act authorizing appropriations for fiscal year 1989, fiscal year 1990, or fiscal year 1991. shall obligate or spend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so authorized to be appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contract, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplace of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2470:

HOUSE REPORTS: No. 100-1061 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-443 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
    Aug. 9, considered and passed Senate.
    Oct. 12, considered and passed House, amended.
    Oct. 21, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
    Nov. 17, Presidential statement.

Public Law 100-685
100th Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

Nov. 17, 1988
[S. 2209]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989".

National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

TITLE I—NATIONAL AERONAUTICS AND SPACE CAPITAL DEVELOPMENT PROGRAM

FINDINGS

42 USC 2451 note.

SEC. 101. Congress finds that—

(1) in accordance with section 106 of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147), a space station, hereafter referred to as the United States International Space Station, shall be constructed in order to establish a permanent presence for man in space for the following purposes—

(A) the conduct of scientific experiments, applications experiments, and engineering experiments;

(B) the servicing, rehabilitation, and construction of satellites and space vehicles;

(C) the development and demonstration of commercial products and processes; and

(D) the establishment of a space base for other civilian and commercial space activities including an outpost for further exploration of the solar system;

(2) expendable launch vehicles should be used to launch those payloads that do not require the presence of man;

(3) the space shuttle launches should be used to fulfill the Nation's needs for manned access to space;

(4) preeminence in space and aeronautics is key to the national security and economic well being of the United States;

(5) United States space policy needs long-range goals and direction in order to provide understanding for near-term space projects and programs;

(6) over the next five years the National Aeronautics and Space Administration, hereafter referred to as the "Administration", should pursue leadership in science through an aggressive set of major and moderate missions while maintaining a robust series of cost effective missions that can provide frequent flight opportunities to the scientific community

(7) over the next five years the Administration should prepare for the transition to the United States International Space

Station of those science and technology programs that can be most efficiently and effectively conducted on that facility;

(8) the Administration should encourage the United States private sector investment in space and, to the maximum extent practicable provide frequent flight opportunities for the development of technologies, processes and products that benefit from the space environment;

(9) the Administration should enhance the existing space transportation capability through a robust mixed fleet of manned and unmanned vehicles in order to increase the reliability, productivity, and efficiency and reduce the cost of the Nation's access to space;

(10) the United States faces an increasingly successful foreign challenge to its traditional preeminent position in aeronautics which is rapidly reducing its lead in both civil and military aircraft;

(11) NASA's personnel are an integral component and resource for the Nation's space program, and an innovative personnel system should be developed;

(12) the establishment of a permanent presence in space leading ultimately to space settlements is fully consistent with the goals of the National Aeronautics and Space Act of 1958;

(13) the United States civil space activities should contribute significantly to enhancing the Nation's scientific and technological leadership, economy, pride, and sense of well-being, as well as United States world prestige and leadership;

(14) civil sector activities should be comprised of a balanced strategy of research, development, operations, and technology for science, exploration, and appropriate applications;

(15) assured access to space, sufficient to achieve all United States space goals, is an essential element of United States space policy, and the United States space transportation systems must provide a balanced, robust, and flexible capability with sufficient resiliency to allow continued operation despite failures in any single system;

(16) the goals of the United States space transportation system are—

(A) to achieve and maintain safe and reliable access to, transportation in, and return from, space;

(B) to exploit the unique attributes of manned and unmanned launch and recovery systems;

(C) to encourage, to the maximum extent feasible, the development and use of United States private sector space transportation capabilities; and

(D) to reduce the costs of space transportation and related services;

(17) recognizing that communications advancements are critical to all United States space activities, the Administration should continue research and development efforts for future advances in space communications technologies;

(18) the goal of aeronautical research and technology development and validation activities should be to contribute to a national technology base that will enhance United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system; and

(19) aeronautical research and technology development and validation activities should—

(A) emphasize emerging technologies with potential for breakthrough advances;

(B) consist of—

(i) fundamental research in all aeronautical disciplines, aimed at greater understanding of aeronautical phenomena and development of new aeronautical concepts; and

(ii) technology development and validation activities aimed at laboratory-scale development and proof-of-concept demonstration of selected concepts with high payoff potential;

(C) assure maintenance of robust aeronautical laboratories, including a first-rate technical staff and modern national facilities for the conduct of research and testing activities;

(D) be conducted with the close, active participation of the United States aircraft industry so as to accelerate the transfer of research results to aviation products;

(E) include providing technical assistance and facility support to other government agencies and United States industry;

(F) include conducting joint projects with other government agencies where such projects contribute materially to the goals set forth in this section;

(G) assure strong participation of United States universities both in carrying out aeronautical research and training future aeronautical research personnel; and

(H) be conducted, where practical, so that United States industry receives research results before foreign competitors.

REPORT ON LONG-RANGE SPACE CAPITAL DEVELOPMENT PROGRAM PLAN

SEC. 102. In consideration of Senate Report No. 100-429 and House of Representatives Report No. 100-650, the Administrator shall, by March 15, 1989, submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a 5-year Capital Development Plan including, but not limited to, the following:

(1) Economic assumptions and budgetary requirements for fulfilling the objectives of such plan.

(2) Estimates of total expenditures needed to maintain the operation of the national launch systems, related tracking and data services, civil service requirements, and all other current services.

(3) A detailed operating plan for fiscal year 1989 and program plans for fiscal years 1990 through 1993 setting forth specific program priorities, objectives, schedules, and milestones.

(4) Estimates of total projected investments in space hardware, facilities, and other capital improvements needed to fulfill the objectives of such plan.

BUDGET INCREASE

SEC. 103. It is the sense of the House of Representatives that the budget for the National Aeronautics and Space Administration should increase substantially over the five years following the date of enactment of this Act with a goal of at least 15 percent growth per annum in order to—

(1) rededicate the United States space program to the goal of leadership in critical areas of space science, space technology, space exploration, aeronautics, space applications, and space commercialization;

(2) reverse the dramatic decline in real spending for such program since the achievements of the Apollo program;

(3) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(4) continue with the development and deployment of a permanently manned space station; and

(5) enhance United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system.

BUDGET REQUEST

31 USC 1105 note.

SEC. 104. Commencing in fiscal year 1990 and every year thereafter, the President shall submit to Congress a budget request for the National Aeronautics and Space Administration for the immediate fiscal year and the following fiscal year, and include budget estimates for the third fiscal year.

TITLE II—FISCAL YEAR 1989 NASA AND MULTIYEAR SPACE STATION AUTHORIZATION

AUTHORIZATION

SEC. 201. (a) There is hereby authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 1989, except as otherwise stated:

(1) For "Research and development" for the following programs:

(A) United States International Space Station, $900,000,000 for fiscal year 1989, $2,130,200,000 for fiscal year 1990, and $2,912,500,000 for fiscal year 1991.

(B)(i) Space transportation capability development, $606,600,000.

(ii) In addition to the funds authorized pursuant to this section, there are authorized to be appropriated for space transportation capability development any additional funds transferred to the Administration from any other agency pursuant to a fiscal year 1989 appropriations Act.

(C) Physics and astronomy, $761,600,000.

(D) Life sciences, $91,700,000.

(E) Planetary exploration, $410,300,000.

(F) Space applications, $628,300,000.

(G) Technology utilization, $19,100,000; provided, however, that the Administrator shall contract for implementation of the Industrial Applications Center located in

Oklahoma through the National Aeronautics and Space Administration's Rural Technology Applications Team.

(H) Commercial use of space, $38,800,000.

(I) Aeronautical research and technology, $404,200,000.

(J) Transatmospheric research and technology, $69,400,000.

(K) Space research and technology, $350,900,000.

(L) Safety, reliability, and quality assurance, $22,400,000.

(M) Tracking and data advanced systems, $18,800,000.

(2) For "Space flight, control and data communications" for the following programs:

(A) Space shuttle production and operational capability, $1,335,500,000, of which $51,000,000 is provided for the advanced solid rocket motor program.

(B)(i) Space transportation operations, $2,365,400,000, including such funds as may be necessary to ensure the availability of ammonium perchlorate for the production of solid rocket motors.

(ii) In addition to the funds authorized pursuant to this section, there are authorized to be appropriated for space transportation operations any additional funds transferred to the National Aeronautics and Space Administration from any other agency pursuant to a fiscal year 1989 appropriations Act.

(C) Space and ground network communications and data systems, $985,300,000.

(3) For "Construction of facilities", including land acquisition as follows:

(A) Modifications to processing Technology Facility for Space Station, Marshall Space Flight Center, $3,700,000.

(B) Construction of Addition for Space Systems Automated Integration and Assembly Facility, Johnson Space Center, $9,200,000.

(C) Replacement of High Pressure Gas Storage Vessels, National Space Technology Laboratory, $3,500,000.

(D) Increase Chiller Capacity, LC-39 Utility Annex, Kennedy Space Center, $2,300,000.

(E) Rehabilitation of PAD A, L-C 39, Kennedy Space Center, $4,600,000.

(F) Refurbish Atmospheric Reentry Materials and Structures Evaluation Facility, Johnson Space Center, $4,900,000.

(G) Modification for Advanced Engine Development, Test Stand 116, Marshall Space Flight Center, $13,500,000.

(H) Modifications to Orbiter Modification and Refurbishment Facility (OMRF) for Safing and Deservicing, Kennedy Space Center, $2,800,000.

(I) Modification to the X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $11,400,000.

(J) Construction of Auxiliary Chiller Facility, Johnson Space Center, $7,800,000.

(K) Modernization of Space Environment Simulator, Goddard Space Flight Center, $2,800,000.

(L) Modifications for Utility Reliability, Goddard Space Flight Center, $3,100,000.

(M) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $12,000,000.

(N) Repair and Modifications of 12-Foot Pressure Wind Tunnel, Ames Research Center, $36,500,000.

(O) Rehabilitation and Modifications to 10x10 Supersonic Wind Tunnel, Lewis Research Center, $14,500,000.

(P) Refurbishment to Hypersonic Facilities Complex, Langley Research Center, $12,800,000.

(Q) Refurbishment of Electric Power Laboratory, Lewis Research Center, $6,100,000.

(R) Construction of National Resource Protection at various locations, $2,600,000.

(S) Repair of facilities at various locations, not in excess of $750,000 per project, $27,000,000.

(T) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $34,000,000.

(U) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $9,000,000.

(V) Environmental compliance and restoration, $26,000,000.

(W) Facility planning and design not otherwise provided for, $20,000,000.

(X) Construction of an advanced solid rocket motor facility, $27,000,000.

Of the amounts authorized pursuant to subparagraphs (S) through (W), the Administrator may obligate up to $5,600,000 in order to expand the Launch Complex-39 Operation Support Building at the Kennedy Space Center. Notwithstanding subparagraphs (A) through (X), the total amount authorized by this paragraph shall not exceed $290,100,000.

(4) For "Research and program management", $1,915,000,000.

Contracts.
Grants.

(b) Notwithstanding the provisions of subsection (e), appropriations authorized in this title for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereafter in this title referred to as the 'Administrator') determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this title may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives of the nature, location, and estimated cost of such facility.

Contracts.
42 USC 2459a.

(c) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year.

(d) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultation or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(e)(1) Funds appropriated pursuant to subsection (a)(1), (2), and (4) may be used for the construction of new facilities and additions to, repair, rehabilitation, or modification of existing facilities, provided the cost of each such project, including collateral equipment, does not exceed $100,000.

(2) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(3) Funds appropriated pursuant to subsection (a)(4) may be used for such work on facilities controlled by the General Services Administration, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(f) Of the amounts authorized pursuant to subsection (a) (1) through (4), up to $8,000,000 may be made available for the National Space Grant College and Fellowship program established under the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147).

CONSTRUCTION OF FACILITIES REPROGRAMMING

SEC. 202. Authorization is hereby granted whereby any of the amounts prescribed in section 201(a)(3) (A) through (X)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

Reports.

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of the amounts specified in section 201(a)(3) (A) through (X).

SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES

SEC. 203. Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed ½ of 1 percent of the funds appropriated pursuant to section 201(a) (1) or (2) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 201(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment. Reports. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

LIMITATIONS ON AUTHORITY

SEC. 204. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science, and Transportation;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 201(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee, of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

GEOGRAPHICAL DISTRIBUTION OF RESEARCH FUNDS

42 USC 2459 note.

SEC. 205. It is the sense of the Congress that it is in the national interest that consideration be given to the widest geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

ARREST AUTHORITY

SEC. 206. Section 304 of the National Aeronautics and Space Act of 1958 is amended by adding at the end the following new subsection:

42 USC 2456a. Regulations.

"(f) Under regulations to be prescribed by the Administrator and approved by the Attorney General of the United States, those employees of the Administration and of its contractors and subcontractors authorized to carry firearms under subsection (e) may arrest without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Persons granted authority to make arrests by this subsection may exercise that authority only while guarding and protecting property owned or leased by, or under the control of, the United States under the administration and control of the Administration or one of its contractors or subcontractors, at facilities owned by or contracted to the Administration.".

ADVANCED SOLID ROCKET MOTOR AUTHORITY

SEC. 207. If, after evaluation of proposals received in response to the request for proposals for an advanced solid rocket motor required by section 121(b) of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147; 101 Stat. 868), the Administrator determines that it is in the best interests of the United States to select a proposal offering a privately financed and non-Government-owned production facility to be constructed on a Government or non-Government site, funds otherwise authorized in section 201(a)(3)(X) of this Act for the construction of a Government-owned production facility on a Government-owned site shall be available, without fiscal year limitation, for that purpose.

STUDIES ON MICROGRAVITY RESEARCH CAPABILITY

Contracts.
Reports.

SEC. 208. (a) The Administrator shall contract with the National Academy of Sciences to undertake a review of the Nation's microgravity research capability and issue a report addressing—

(1) the scientific and commercial value to the Nation of achieving a man-tended capability through a Commercially Developed Space Facility (CDSF) prior to man-tended operations of the space station;

(2) the technical characteristics of a CDSF that would enable its optimum use;

(3) the anticipated microgravity research and manufacturing requirements of commercial users and the Government;

(4) the extent to which existing and proposed facilities could support these requirements;

(5) the likelihood that a CDSF would become commercially self-sustaining and an estimate of when that could occur;

(6) the state of space automation technology and its relevance to the capabilities required for a CDSF;

(7) how a decision by the Government to lease facilities on a CDSF might affect the viability of other proposed commercial microgravity research facilities; and

(8) the effect a commitment to the CDSF would have on the current space transportation system launch schedule.

Contracts.

(b) The Administrator shall contract with the National Academy of Public Administration to—

(1) estimate the developmental, operational, and other costs to the Government associated with a CDSF;

(2) consider the practicability of various financial options by which the Government could participate in a CDSF, including leasing, lease-purchase, and purchase;

(3) consider, as regards the lease option, instead of providing for a flat level of lease obligations, the practicability of reducing

on a yearly basis the level of Government lease operations during the years of operation of a CDSF; and

(4) consider, as regards the lease option, the practicability of making the minimum levels of Government lease obligations in the years of operation of a CDSF contingent on the attachment, by the CDSF operator, of certain minimum levels of irrevocable contract commitments with entities other than the United States Government.

Reports.

(c) Based on the above reports, the Administrator shall provide a report to the House Committee on Science, Space, and Technology and the Senate Committee on Commerce, Science, and Transportation with policy options related to a CDSF and microgravity facilities, to be delivered no later than May 15, 1989.

BUY AMERICAN

Contracts.

SEC. 209. (a) The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is organized under the laws of the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

Science and technology.

Union of Soviet Socialist Republics.

INTERNATIONAL SPACE DOCKING CAPABILITY

SEC. 210. (a) It is the sense of Congress that the Administrator should establish a multilateral working group of representatives from the space agencies of appropriate spacefaring nations, including the Union of Soviet Socialist Republics, and from appropriate international entities, to explore the technological and procedural principles that would be necessary to achieve an international space docking capability, and the establishment of international docking interface standards for addressing requirements for compatible interfaces for docking, communications, and life support systems, and also space rescue missions which could particularly benefit from the use of such a capability.

(b) Within 6 months after the date of the enactment of this Act, the Administrator shall advise the Congress on the status of establishing an International Space Docking Working Group as recommended in subsection (a).

JOHN C. STENNIS SPACE CENTER

Mississippi.

SEC. 211. The National Space Technology Laboratories of the National Aeronautics and Space Administration located in Bay St. Louis, Mississippi, is named and designated as the "John C. Stennis Space Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such center shall be held to be a reference to the "John C. Stennis Space Center".

OUTER SOLAR SYSTEM EXPLORATION

SEC. 212. The Administrator, in coordination with the Secretary of Energy, for the purpose of outer solar system exploration, may request and receive such quantities of nuclear fuel as are necessary only for the specific mission, on terms and at costs as may be agreed upon. Nothing in this section authorizes the providing of such nuclear fuel on those terms for any other purpose or its diversion for any other use.

COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION

SEC. 213. Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $3,827,000 for fiscal year 1989.".

NATIONAL AERONAUTICS AND SPACE ACT OF 1958 AMENDMENT

SEC. 214. Section 102(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(c)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

Science and technology.

"(9) The preservation of the United States preeminent position in aeronautics and space through research and technology development related to associated manufacturing processes.".

DRUG-FREE WORKPLACE

42 USC 2459 note.

SEC. 215. (a) No funds authorized to be appropriated under this Act, or under any other Act authorizing appropriations for fiscal year 1989 through 1993 for the Administration, shall be obligated or expended unless the Administration has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Administration.

(b) No funds authorized to be appropriated to the Administration for fiscal years 1989 through 1993 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by the board of directors or other government authority of such recipient, contractor, or party, satisfactory to the Administrator of the Administration, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

(c) The provisions of this section, and the provisions of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988, the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989, the National Science Foundation Authorization Act for Fiscal Years 1989 and 1990, and the National Nutrition Monitoring and Related Research Act of 1988, relating to a drug-free workplace, shall not be effective until January 16, 1989.

OHIO CENTER FOR AEROSPACE

SEC. 216. (a) The Administrator may, without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), and on such terms as the Administrator may deem to be appropriate, lease, for a term not to exceed 99 years, real property located at the Lewis Research Center in Cuyahoga County, to the State of Ohio, or a subdivision or agent thereof, or to a corporation or foundation organized exclusively for educational or scientific purposes which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to any other not-for-profit entity, for the purpose of the construction and operation thereon of an Institute whose purpose is the conduct of aeronautical and space research, the education and training of aeronautical and space engineers, and the transfer of aeronautical and space technology between the United States public and private sectors. This lease shall be renewable for additional periods in the discretion of the Administrator.

(b) Subject to the availability of appropriations therefor, the Administrator may enter into agreements, on such terms as the Administrator may deem to be appropriate, with the State of Ohio, or a subdivision or agent therefor, or with a corporation or foundation organized exclusively for educational or scientific purposes which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to any other not-for-profit entity, pursuant to which the Administration may provide administrative, maintenance, instructional, and other appropriate support, with or without reimbursement, to an Institute whose purpose is the conduct of aeronautical and space research, the education and training of aeronautical and space engineers, and the transfer of aeronautical and space technology between the United States public and private sectors.

(c) The Administrator may redelegate the authority conferred in subsections (a) and (b), to such subordinate officers and employees as the Administrator may designate.

SPACE SETTLEMENTS

42 USC 2451 note.

SEC. 217. (a) The Congress declares that the extension of human life beyond Earth's atmosphere, leading ultimately to the establishment of space settlements, will fulfill the purposes of advancing science, exploration, and development and will enhance the general welfare.

(b) In pursuit of the establishment of an International Space Year in 1992 pursuant to Public Law 99-170, the United States shall exercise leadership and mobilize the international community in furtherance of increasing mankind's knowledge and exploration of the solar system.

Reports.

(c) Once every 2 years after the date of the enactment of this Act, the National Aeronautics and Space Administration shall submit a report to the President and to the Congress which—

(1) provides a review of all activities undertaken under this section including an analysis of the focused research and development activities on the Space Station, Moon, and other outposts that are necessary to accomplish a manned mission to Mars;

(2) analyzes ways in which current science and technology can be applied in the establishment of space settlements;

(3) identifies scientific and technological capacity for establishing space settlements, including a description of what steps must be taken to develop such capacity;

(4) examines alternative space settlement locations and architectures;

(5) examines the status of technologies necessary for extraterrestrial resource development and use and energy production;

(6) reviews the ways in which the existence of space settlements would enhance science, exploration, and development;

(7) reviews mechanisms and institutional options which could foster a broad-based plan for international cooperation in establishing space settlements;

(8) analyzes the economics of financing space settlements, especially with respect to private sector and international participation;

(9) discusses sociological factors involved in space settlement such as psychology, political science, and legal issues; and

(10) addresses such other topics as the National Aeronautics and Space Administration considers appropriate.

PEACEFUL USE OF SPACE STATION

Sec. 218. No civil space station authorized under section 201(a)(1)(A) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

COMMERCIAL SPACE PROGRAMS

15 USC 3704 note.

Sec. 219. Section 201 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 is amended by adding at the end the following new subsection:

"(f) Commercial Space Programs.—Nothing in this section authorizes the Department to establish an Office of Commercial Space Programs or to place such an office into the Technology Administration without prior authorization of the Congress.".

TITLE III—TEN YEAR STRATEGIC PLAN

Science and technology.
42 USC 2451 note.

AERONAUTICS AND SPACE STRATEGIC PLAN

SEC. 301. The Administrator should develop an aggressive and balanced plan of science and applications including but not limited to—

(1) the robotic exploration of other solar system bodies;

(2) the study and observation of other celestial bodies and phenomena at spectral wave lengths and resolutions that will enhance our understanding of the universe;

(3) the enhanced study and monitoring of Earth as an interacting system;

(4) the development of a full understanding of the behavior of biological systems in the space environment; and

(5) the development of a full understanding of physics and chemistry of the macroscopic behavior of materials in the microgravity environment.

SPACE RESEARCH AND TECHNOLOGY STRATEGIC PLAN

SEC. 302. The Administrator should develop an aggressive and balanced plan of space research and technology including but not limited to—

(1) fundamental and innovative research as the seedbed for enabling technologies for future civil space missions;

(2) focused technology programs keyed to long range, high priority civil space missions;

(3) technology research and demonstrations, extending laboratory activities from Earth to space-based facilities such as the Space Shuttle, Space Station, orbital platforms, and eventually the Moon and other planetary bodies; and

(4) cooperation with, and service to, other space program sectors with advanced technology and use of ground and space-based facilities.

SPACE EXPLORATION STRATEGIC PLAN

SEC. 303. The Administrator should develop a plan in pursuit of the continued manned exploration of the solar system and low-Earth orbit, including but not limited to—

(1) the establishment of an operational United States International Space Station that shall be permanently manned; and

(2) the development of those technologies and systems required for manned exploration of space beyond earth orbit.

SPACE TRANSPORTATION STRATEGIC PLAN

SEC. 304. The Administrator should develop a plan to improve the manned and unmanned space transportation system including—

(1) the continued enhancement of the space shuttle and its ground system in order to increase safety and efficiency and reduce costs;

(2) the completion of the development of a heavy-lift expendable launch vehicle if consistent with mission requirements of the Administration, the Department of Defense, and other Federal agencies; and

(3) the initiation of preliminary design activities for the next generation of a manned space launch system beyond the space shuttle.

AERONAUTICAL RESEARCH AND TECHNOLOGY DEVELOPMENT AND VALIDATION LONG-RANGE PLAN

SEC. 305. The Administrator should develop a plan in pursuit of—

(1) a vigorous program in aeronautics research and technology development and validation, emphasizing emerging technologies with the potential for breakthrough advances to enhance United States preeminence in civil and military aviation; and

(2) in cooperation with the Department of Defense, a technology development program (with an option for a flight demonstration in 1995) to prove the feasibility of an air-breathing hypersonic aerospaceplane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 401. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research duties of the National Weather Service under law, $279,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1974, and any other law involving such duties. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

SEC. 402. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its public warning and forecast systems duties under law, $98,500,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such duties. Such duties include the development, acquisition, and implementation of major public warning and forecast systems.

Contracts.

(b) In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce (hereafter in this title referred to as the "Secretary") may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts.

SEC. 403. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its climate and air quality research duties under law, $51,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such duties. Such duties include the interannual and seasonal climate research long-term climate and air quality research, and the National Climate Progam.

(b) Of the sums authorized under subsection (a) of this section $3,238,000 for fiscal year 1989 are authorized to be appropriated for the activities under the National Climate Program Act (15 U.S.C. 2901 et seq.).

(c) Of the sums authorized under subsection (a) of this section, $12,000,000 for fiscal year 1989 are authorized to be appropriated to establish a program for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmosphere processes, and climate prediction and diagnostics.

Sec. 404. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research duties under law, $44,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric research specified by the Act of 1890 and by any other law involving such duties. Such duties include research for developing improved production capabilities for atmospheric processes, as well as solar-terrestrial services and research.

Sec. 405. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems duties under law, $383,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act of 1890 and by any other law involving such duties. Such duties include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) The authorization provided for under subsection (a) of this section shall be in addition to moneys authorized under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) for the purpose of carrying out such duties relating to satellite observing systems.

Sec. 406. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services duties under law, $25,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act of 1890 and by any other law involving such duties. Such duties include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

15 USC 313 note. Sec. 407. (a) The Secretary shall prepare and submit to the Congress, not later than 90 days after the date of enactment of this

Act, a 10-year strategic plan for the comprehensive modernization of the National Weather Service. The strategic plan shall set forth basic service improvement objectives of the modernization as well as the critical new technological components and the associated operational changes necessary to fulfill the objectives of weather and flood warning service improvements.

(b) The Secretary shall prepare and submit to the Congress, by the beginning of the fiscal year immediately following the fiscal year in which the strategic plan required by subsection (a) of this section is submitted, a National Implementation Plan for modernization of the National Weather Service. The National Implementation Plan shall set forth the schedules for necessary actions to accomplish the objectives described in the strategic plan, and the National Implementation Plan shall include—

(1) detailed requirements for new technologies, facilities, staffing levels, and funding, for each of the two fiscal years immediately following the fiscal year in which such National Implementation Plan is submitted, in accordance with the overall schedule for modernization;

(2) special measures to test, evaluate, and demonstrate key elements of the Modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of all components of the modernization in an integrated manner for a sustained period; and

(3) detailed plans and funding for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize the new technologies being implemented in the modernization.

(c) The Secretary shall submit a revised National Implementation Plan to the Congress at the beginning of each successive fiscal year after the fiscal year in which the initial National Implementation Plan is submitted.

(d) In reviewing and revising the National Implementation Plan, the Secretary shall consult, as appropriate, with other Federal and public agencies responsible for providing or utilizing weather services.

15 USC 313 note.

SEC. 408. (a) The Secretary shall not close, consolidate, automate, or relocate any Weather Service Office or Weather Service Forecast Office pursuant to the implementation of the strategic plan required by section 407, except in accordance with this section.

(b) The Secretary may not close, consolidate, automate, or relocate any such office unless the Secretary has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives that such action will not result in any degradation of weather services provided to the affected area. Such certification shall include—

(1) a detailed comparison of the services provided to the affected area and the services to be provided after such action;

(2) any recent or expected modernization of National Weather Service operations which will enhance services in the affected area; and

(3) evidence, based upon operational demonstration of modernized National Weather Service operations, which supports the conclusion that no degradation in services will result from such action.

15 USC 1534.

SEC. 409. (a) Except as otherwise provided in this section, the Secretary is authorized to assess fees, based on fair market value, for access to environmental data archived by the National Environmental Satellite, Data, and Information Service of the National Oceanic and Atmospheric Administration.

State and local governments. Schools and colleges.

(b)(1) The Secretary shall provide data described in subsection (a) to Federal, State, and local government agencies, to universities, and to other nonprofit institutions at the cost of reproduction and transmission, if such data is to be used for research and not for commercial purposes.

International organizations.

(2) The Secretary shall waive the assessment of fees under subsection (a) as necessary to continue to provide data to foreign governments and international organizations on a data exchange basis or as otherwise provided by international agreement.

Federal Register, publication.

(c) The initial schedule of any fees assessed under this section, and any subsequent amendment to such schedule, shall be published by the Secretary in the Federal Register at least 30 days before such fees will take effect. The initial schedule shall remain in effect without amendment for the three-year period beginning on the date that fees under the schedule take effect.

(d) Any assessment of fees under this section shall meet the following requirements:

(1) No fees shall be assessed under this section until after September 30, 1989

(2) With respect to the first one-year period during which the initial fee schedule is in effect, fees shall be assessed at no more than one-third of the fair market value specified in subsection (a).

(3) With respect to the second one-year period during which the initial fee schedule is in effect, fees shall be assessed at not more than two-thirds of such fair market value.

(4) With respect to the third one-year period during which the initial fee schedule is in effect, and with respect to any period thereafter, fees shall be assessed at no more than the full amount of such fair market value.

(e) Fees collected under this section shall be available to the National Environmental Satellite, Data, and Information Service for expenses incurred in the operation of its data archive centers.

Reports.

(f) The Secretary shall, not later than 90 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report which sets forth—

(1) any plan of the Secretary for assessing fees under this section, including the methodology and bases by which the amount of such fees shall be determined, and the estimated revenues therefrom; and

(2) any plan of the Secretary for using revenues generated from such fees, as well as other resources, to improve the capability of the National Environmental Satellite, Data, and Information Service to collect, manage, process, archive, and disseminate the increasing amounts of data generated from satellites, radars, and other technologies.

(g) The authority of the Secretary to assess fees under this section shall be in addition to, and shall not be construed to limit, the authority under any other law to assess fees relating to the environmental data activities of the National Oceanic and Atmospheric Administration.

Pollution.
42 USC 7454 note.

SEC. 410. The Secretary, in consultation with the Secretary of State, the Administrator of the National Aeronautics and Space Administration, and appropriate non-Federal organizations, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan to construct and operate a worldwide system of ground-based remote sensors to monitor the stratospheric levels of chemicals which can affect the level of ozone in the stratosphere and to use these results to improve our understanding of the possible changes in stratospheric ozone that are the consequence of human activities. The plan shall include time lines for construction and operation of the system, a description of the roles of the National Oceanic and Atmospheric Administration and the National Aeronautics and Space Administration, non-Federal organizations, other nations, and international organizations in constructing and operating the system, and estimates of the costs to construct and operate the system. The plan shall be submitted not later than July 1, 1989.

SEC. 411. It is the sense of the Congress that the global change program represents a significant opportunity for international cooperation and that it is in the best interest of the United States to maintain a separate civilian polar meteorological satellite program to facilitate data sharing with foreign participants in the global change program.

Missouri.

SEC. 412. None of the funds authorized under this title shall be used to move from Kansas City, Missouri, the National Weather Service Training Center currently located at Kansas City, nor to close such Center, nor to contract out any function or activity performed by Federal employees as of the date of enactment of this Act.

SEC. 413. For the purposes of this title, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

Environmental protection.
42 USC 8906.

SEC. 414. (a)(1) The National Weather Service of the National Oceanic and Atmospheric Administration shall maintain an updated data base describing the acid content in precipitation in the United States, using information from Federal acid precipitation monitoring sites.

(2) Such data shall be available to interested parties by Weather Service Forecast Offices in the National Weather Service, or through such other facilities or means as the Assistant Administrator for Weather Services, National Oceanic and Atmospheric Administration, shall direct, for those areas of the United States where and at such time as such information is presently available, within 120 days after the date of the enactment of this Act.

(3) Where other Federal agencies collect such data in the course of carrying out their statutory missions, the heads of those agencies and the Administrator of the National Oceanic and Atmospheric

Administration shall arrange for the transfer of such data to the National Weather Service.

(b) Nothing in this section shall be construed to require any Federal agency to establish any new acid precipitation monitoring site.

TITLE V—NATIONAL SPACE COUNCIL

NATIONAL SPACE COUNCIL

Establishment. 42 USC 2471.

SEC. 501. (a) Effective February 1, 1989, there is established in the Executive Office of the President the National Space Council, which shall be chaired by the Vice President.

President of U.S. Reports.

(b) By March 1, 1989, the President shall submit to the Congress a report that outlines the composition and functions of the National Space Council.

President of U.S.

(c) The Council may employ a staff of not more than seven persons, which is to be headed by a civilian executive secretary, who shall be appointed by the President.

49 USC app. 1353 note.

TITLE VI—AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH

SEC. 601. FINDINGS.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

SEC. 602. STUDY ON INCREASED AUTOMATION.—

(1) IN GENERAL.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) CONTENT.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying indivduals possessing those attributes and aptitudes.

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

SEC. 603. AGREEMENT WITH ADMINISTRATOR OF NASA.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) CONTENT.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.—For conducting research under this title there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2209 (H.R. 4561):

HOUSE REPORTS: No. 100-650 accompanying H.R. 4561 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-429 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 2, H.R. 4561 considered and passed House.
Aug. 9, S. 2209 considered and passed Senate.
Oct. 19, considered and passed House, amended.
Oct. 21, Senate concurred in House amendment.

Public Law 100-697
100th Congress

An Act

To establish a national Federal program effort in close collaboration with the private sector to develop as rapidly as possible the applications of superconductivity to enhance the Nation's economic competitiveness and strategic well-being, and for other purposes.

Nov. 19, 1988
[H.R. 3048]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Superconductivity and Competitiveness Act of 1988.
15 USC 5201 note.
15 USC 5201.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Superconductivity and Competitiveness Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that--

(1) recent discoveries of high-temperature superconducting materials could result in significant new applications of these materials in such areas as microelectronics, computers, power systems, transportation, medical imaging, and nuclear fusion, yet most potential applications may well lie beyond our ability to predict them;

(2) full application of the new superconductors is expected to require 10 to 20 years, thus calling for long-term commitments by the public and private sector to appropriate research and development programs;

(3) the Nation's economic competitiveness and strategic well-being depend greatly on the development and application of critical advanced technologies such as those anticipated to evolve from the new superconducting materials;

(4) the United States manufacturing industries confront strong competition in both domestic and world markets as other countries are increasingly taking advantage of modern technology and production techniques and innovative management focused on quality;

(5) whereas we have as a Nation been highly successful in the conduct of basic research in a variety of scientific areas, including superconductivity, other nations have been highly successful in the commercial and military application of the results of such fundamental research;

(6) if the United States is to begin its competitive advantage, it must commit sufficient long-term resources to solving processing and manufacturing problems in parallel with basic research and development;

(7) Federal agencies have responded aggressively to this exciting challenge by reprogramming funds to basic superconductivity research while informally coordinating their efforts to avoid unnecessary duplication; and further commitment of Federal funding and efforts directed to developing manufacturing, materials processing, and fabrication tech-

nologies is essential so that these activities may be conducted in parallel;

(8) successful development and application of the new superconducting materials will require close collaboration between the Federal Government and the industrial and academic components of the private sector, as well as coordinating among the Federal departments and agencies involved in research and development on superconductors;

(9) a committed Federal program effort with appropriate long-term goals, priorities, and adequate resources is necessary for the rapid development and application of the new superconducting materials; and

(10) a national program should serve as a test of new agency authorities directed at technological competitiveness such as those provided to the Department of Energy.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a 5-year national action plan to research and develop new high-temperature superconducting materials with appropriate goals and priorities;

(2) to designate the appropriate roles, mechanisms, and responsibilities of various Federal departments and agencies in implementing such a national research and development action plan.

15 USC 5202.

SEC. 3. NATIONAL ACTION PLAN ON SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT.—(1) The Director of the Office of Science and Technology Policy shall establish a 5-year National Action Plan on Advanced Superconductivity Research and Development (hereinafter in this Act referred to as the "Superconductivity Action Plan").

(2) The Office of Science and Technology Policy shall coordinate the development of the Superconductivity Action Plan and any recommendations required by this Act with the National Critical Materials Council and the National Commission on Superconductivity.

(b) CONTENT AND SCOPE.—The Superconductivity Action Plan shall include—

(1) goals and priorities for advanced superconductivity research and development to be carried out by individual departments and agencies and organizational elements therein;

(2) the assignment of responsibility for the conduct of advanced superconductivity research and development among the departments, agencies, and organization elements therein;

(3) recommendation of proposed funding levels for activities relating to superconductivity of the 5 years following the date of enactment of this Act for each of the participating departments, agencies, and organizational elements therein; and

(4) proposals for the participation by industry and academia in the planning and implementation of the Superconductivity Action Plan.

(c) ACTION PLAN REPORT.—The Office of Science and Technology Policy, in conjunction with the National Critical Materials Council, shall submit a report detailing the Superconductivity Action Plan to the Committee on Science, Space, and Technology of the House of Representatives, and to the Committees on Energy and Natural

Resources, and Commerce, Science, and Transportation of the Senate, within 9 months after the date of enactment of this Act.

(d) UPDATE REPORTS.—The Office of Science and Technology Policy, with the assistance of the National Critical Materials Council as specified in the National Critical Materials Act of 1984 (30 U.S.C. 1801 et seq.), shall prepare an annual report setting forth and evaluating the progress of the Superconductivity Action Plan. This report shall include a description of the amount of funds expended in the previous year by all Federal departments and agencies involved with superconductivity. This report shall be submitted with the President's annual budget request to the Committee on Science, Space, and Technology of the House of Representatives, and to the Committees on Energy and Natural Resources, and Commerce, Science, and Transportation of the Senate.

SEC. 4. DEPARTMENT OF ENERGY.

15 USC 5203.

Reports.

The Secretary of Energy shall conduct a program in superconductivity research and development. Within 180 days after the date of enactment of this Act, and for the two succeeding years thereafter, the Secretary shall submit annual reports on the implementation of technology transfer activities under the Stevenson-Wydler Technology Innovation Act of 1980 and related legislation with respect to superconductivity research and development to the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate. Such report shall include recommendations for improvements in the technology transfer between government and industry, and in the management of property developed or made at the National Laboratories.

SEC. 5. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

15 USC 5204.

In pursuance of the goals of this Act, the National Institute of Standards and Technology shall promote fundamental research and materials standards to accelerate the use and application of the new superconducting materials, and shall utilize the Superconductivity Center Focusing on Electronic Applications at the National Institute of Standards and Technology in Boulder, Colorado.

SEC. 6. NATIONAL SCIENCE FOUNDATION.

15 USC 5205.

The National Science Foundation shall promote fundamental research in pursuance of the goals of this Act.

SEC. 7. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION.

15 USC 5206.

The National Aeronautics and Space Administration shall utilize existing programs in technology transfer, aeronautics and space technology, and space commercialization to promote the commercial applications of high-temperature superconductors, including applications relating to thin film technology, communications technology, sensors, space power, and propulsion.

SEC. 8. THE DEPARTMENT OF DEFENSE.

15 USC 5207.

(a) FOCUS OF RESEARCH.—In conformance with the Superconductivity Action Plan, the Secretary of Defense, in the superconductivity research and development activities of the Department of Defense, shall give emphasis to fundamental research, materials processing, and applications of new superconducting materials.

(b) Additional Activities.—In conducting research under subsection (a), the Secretary of Defense shall—

(1) systematically define the engineering parameters for high-temperature superconducting materials; and

(2) conduct the necessary development, engineering, and operational prototype testing considered appropriate to the overall mission of the Department of Defense. Such operational prototype testing shall, where appropriate, utilize criteria developed by the Defense Advanced Research Projects Agency.

(c) Defense Advanced Research Projects Agency.—The Director of the Defense Advanced Research Projects Agency shall, in conformance with the Superconductivity Action Plan, conduct activities to—

(1) augment, as appropriate, basic and applied superconductivity research conducted in other Federal agencies and industry; and

(2) develop criteria for operational prototype testing within the Department of Defense.

15 USC 5208.

SEC. 9. INTERNATIONAL COOPERATION.

President of U.S.

The President, as part of the Superconductivity Action Plan, shall establish a program of international cooperation in the conduct of fundamental and basic research on superconducting materials. Such program of international cooperation shall include the exchange of basic information and data, as well as the development of international standards for the use and application of superconducting materials.

15 USC 5209.

SEC. 10. TECHNOLOGY TRANSFER.

(a) Promotion.—In pursuance of the goals of this Act, all Federal departments and agencies shall conduct technology transfer activities as appropriate to the overall mission of each department or agency to—

(1) complement basic superconductivity research by promoting the rapid development of manufacturing and processing technologies necessary for the commercialization of high-temperature superconductors; and

(2) promote collaborative arrangements and consortia of industry (which shall include small business) in order to lower the barriers to deployment of advanced high-temperature superconductor technology; such consortia to also include, as appropriate, universities and independent research organizations.

(b) Impediments to Commercialization.—The Director of the Office of Science and Technology Policy, in collaboration with the Secretary of Commerce and the Secretary of Energy, shall identify those Federal policies and regulations which impede the ability of the private sector to undertake long-term investment programs to commercialize superconductivity applications.

SEC. 11. MANUEL LUJAN, JR. NEUTRON SCATTERING CENTER.

(a) Renaming Facility.—The Los Alamos Neutron Scattering Center is hereby redesignated as the "Manuel Lujan, Jr. Neutron Scattering Center".

(b) References.—Any reference in any law, regulation, map, record, or other document of the United States to the Los Alamos Neutron Scattering Center shall be considered a reference to the "Manuel Lujan, Jr. Neutron Scattering Center".

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 3048:

HOUSE REPORTS: No. 100-900 (Comm. on Science, Space, and Technology).
CONGRESSIONAL RECORD, Vol. 134 (1988):
- Sept. 20, considered and passed House.
- Oct. 5, considered and passed Senate, amended.
- Oct. 21, House concurred in certain Senate amendments with an amendment and disagreed to another. Senate receded and concurred in House amendment.

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97TH CONGRESS

98TH CONGRESS

99TH CONGRESS

100TH CONGRESS

To use this index, bend the directory over and locate the desired section by following the black markers.